



NEW SOUTH WALES
INDUSTRIAL GAZETTE

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NEW SOUTH WALES

INDUSTRIAL GAZETTE

Printed by the authority of the Industrial Registrar

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

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[†]These Presidential members are also Judicial members of the Industrial Relations Commission of New South Wales in Court Session, established as a superior court of record pursuant to section 152 of the *Industrial Relations Act 1996*.

INDUSTRIAL REGISTRAR

Mr M. GRIMSON

DEPUTY INDUSTRIAL REGISTRAR

Mr A. G. MUSGRAVE

(1319)

SERIAL C1999**FRESENIUS MEDICAL CARE AUSTRALIA PTY LTD (SMITHFIELD)
SITE ENTERPRISE AWARD 2003 - 2004**

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Fresenius Medical Care Australia Pty Limited.

(No. IRC 2486 of 2003)

Before Mr Deputy President Grayson

18 June 2003

AWARD**1. Arrangement**

Clause No.	Subject Matter
1.	Arrangement
2.	Classification
3.	Changes to Classification
4.	Wages
5.	Hours
6.	Rostered Day Off (RDO)
7.	Overtime
8.	Meal Hours - Meal Money
9.	Holidays
10.	Sick Leave
11.	Annual Leave
12.	Annual Leave Loading
13.	Long Service Leave
14.	Bereavement Leave
15.	Parental Leave
16.	Protective Clothing
17.	Contract of Employment
18.	Payment of Wages
19.	Shift Work
20.	Training
21.	Performance Appraisal
22.	Productivity Measures
23.	Accident Pay
24.	First Aid Attendance and Ambulance Chest
25.	Amenities
26.	Right of Entry
27.	Mechanisation
28.	Counselling Disciplinary Procedures
29.	Dispute Settling Procedure
30.	Sunday/Public Holiday Pay
31.	Medical check
32.	Area, Incidence and Duration
33.	Redundancy
34.	Superannuation
35.	Rehabilitation Provider
36.	Union Leave
37.	Entitlements Protection
38.	Mixed Functions/Higher Duties
39.	Anti-Discrimination

- 40. Period of Operation
- 41. Personal/Carer's Leave
- 42. No Further Claims

Schedule 1 - Wage Rates

2. Classification

2.1 Classification of all employees covered by this site Award will be based on skill levels attained, performance and attitude.

2.2 Employees are required to perform any duties that are within their skill, training and competency.

2.2.1 Team Leader

Have team leadership skills.

Can assign work priorities.

Can train/induct other team members in new skills. Attributes required for Level 1 Team member.

2.2.3 Team Member - Level I

Have the necessary literacy, numeracy and computer skills.

Holder of a certified Forklift licence

Is aware of the relevant work procedures and is complying with their requirements.

Undertakes duties in a safe and responsible manner

2.2.4 Team Member - Level II and III

Employees will be classified on the above levels depending on the degree of skill required to do the task, the degree of competency skills and performance exhibited by the employee as judged by the Production Manager, and as a result of completing appropriate training, and experience

2.2.5 New Team Member - Level IV

New employees learning the skills necessary to satisfactorily carry out their assigned tasks. Level IV will be for a maximum of 3 months.

3. Changes to Classification

3.1 The transfer to higher levels will be on the basis of a request from the Team Leader. All requests will be reviewed by the Manager, who will advise the Team Leader of the decision.

3.2 The promotion from Level 1 to Team Leader will be on the basis of either creation of a new team, or a vacancy. The demotion of Team Leaders to Level 1 will be on the basis of non-performance of duties (carried out through counselling procedure), elimination of a team, or by mutual agreement.

4. Wages

4.1 Adult Employees - The total rates set out shall be the minimum rates payable to employees herein named.

4.2 Team Leaders

Increases above the minimum prescribed by this Award may be negotiated separately by individual Team Leaders, where there has been a substantial change in Responsibilities or Performance.

Team Member	1-Jan-03 Hourly Rate	1-Jan-04 Hourly Rate
Team Leader	20.3507	20.9612
TM Level I	17.3287	17.8486
TM Level II	16.2615	16.7493
TM Level III	15.8627	16.3386
TM Level IV	15.0666	15.5186
Casual	16.7136	17.2150

- 4.3 Fresenius Medical Care will contribute 1% of the employees ordinary wage, (i.e excluding overtime and allowances) for all permanent employees forward a salary continuance insurance scheme.
- 4.4 The increases specified above represent a 3% increase commencing from the first pay period on or after 1 January 2003 and a further 3% increase from the first pay period on or after 1 January 2004.
- 4.5 The above increases are subject to a commitment by the parties to either implement or continue to implement a process of improving productive performance.

5. Hours

- 5.1 Normal working hours for the site will be 6.00am to 6.00pm five days per week, Monday to Friday. The total working hours are 38 hours per week with a maximum of 10 hours per day. The employer can alter the start/stop time of any employee by giving at least one month's notice. New times will remain fixed for at least 3 months, except by mutual agreement. Consideration will be given to special hardship cases and mutual agreement will be sought whenever possible.
- 5.2 The employer shall endeavour to give a one (1) month's notice for roster changes. No notice of change of roster needs to be given when agreement exists between the employer and employee as to the change if circumstances prohibit giving a one month's notice as to the change.
- 5.3 By agreement with the employer, a team leader, and the employee, the employee may work on Saturdays as part of their ordinary week. An allowance of 20% will be paid to maximum of 8 hours for the Saturday.
- 5.4 By agreement with the employee the team leader and the employee, an employee may temporarily work between the hours of 6pm and 1 pm, Monday to Friday, as part of their ordinary week.
- An allowance of 20% will be paid for the time worked after 6pm to a maximum of 8 hours worked on any day. All time after the 8 hours will be paid at overtime rates.
- 5.5 The total normal working, hours will be 38 hours/week. Rostered days off will be used to achieve the average of 38 hours/week, except by mutual agreement.

6. Rostered Day Off (RDO)

- 6.1 An RDO system will be based on the following principles:
- 6.1.1 An RDO is not a day given, but hours off for time worked in lieu.
- 6.1.2 The RDO will be paid from an accrued employee time bank.
- 6.1.3 The accrual will be based on a factor to ordinary hours paid.
- 6.1.4 The accrual will be generated only from: Actual ordinary, overtime working hours and annual leave.

- 6.1.5 If an employee agrees to work on the RDO, they will be paid the RDO payment plus normal time rates for the full hours worked.
- 6.1.6 Up to maximum of 5 RDOs may be accrued. However, more could be accrued by mutual consent between the employer and employee. The accrued days must be taken within 12 months.
- 6.1.7 On termination or retirement, the employee's accrued RDO bank will be paid out.
- 6.1.8 An RDO can be taken on any day by either giving 1 week's notice or by mutual agreement between employee, employer, and the team leader.

7. Overtime

- 7.1 All time worked before the agreed commencing time or after the agreed ceasing time each day shall be overtime and shall be paid for at the rate of time and a half for the first hour and double time thereafter.
- 7.2 An employee recalled to work after leaving the employer's premises shall be paid for four hours at least, at the appropriate overtime rate.
- 7.3 An employee working overtime but finishing work when the usual means of transport are not available, shall be entitled to any additional outlay incurred in reaching home by reasonable means of transport.
- 7.4 Where over-time is necessary it shall, wherever reasonably practicable, be so arranged that employees have at least eight consecutive hours off duty between the work of successive days. An employee (other than a casual employee) who works overtime between the termination of their ordinary work on one day and the commencement of their ordinary work on the next day such that the employee has not had at least eight consecutive hours off duty between these times shall, subject to this subclause, be released after completion of such overtime until they have had eight successive hours off duty without loss of pay, for ordinary working time occurring during such absence. If on the instructions of the employer such employee resumes or continued to work without have had the eight consecutive hours off duty, they shall be paid at double rates until they are released from duty for that period, or they shall then be entitled to be absent until they have had eight consecutive hours off duty without loss of pay, for ordinary working time occurring during such absence. Call-backs shall not be counted as overtime for the purpose of this subclause.
- 7.5 Overtime shall be paid for at the end of each fortnight and each day shall stand alone, except where it relates to clause 17.

8. Meal Hours - Meal Money

- 8.1 Employees shall be allowed a meal break of not less than thirty minutes or more than one hour, Monday to Friday, inclusive.
- 8.2 An employee called upon to work during their regular meal break shall be paid at overtime rates for all time worked until such break for meal is granted, unless by mutual agreement.
- 8.3 Meal Allowance (Overtime not notified)
 - 8.3.1 An employee who is required to work for any period in excess of one and one-half hours after the fixed finishing time shall be allowed an amount of \$10.00 for a meal, which shall be paid to the employee prior to the meal break.
 - 8.3.2 If an employee pursuant to such notice has provided a meal or meals and is not required to work overtime, or is required to work less than the surplus, they shall be paid in accordance with paragraph (a) of this subclause for meals which they have provided and which are surplus.
- 8.4 Employees shall be supplied at meal time with boiling water or with facilities for boiling water.
- 8.5 No employees shall work longer than five hours without a break for a meal.

9. Holidays

- 9.1 Days gazetted as public holidays in NSW shall be allowed to all employees covered by this Award.
- 9.2 The Tuesday after Easter Monday will be allowed as the Union Picnic Day.
- 9.3 Any employee who is absent without leave or reasonable excuse on the working day succeeding or proceeding a holiday shall not be entitled to payment for such holiday.

10. Sick Leave

- 10.1 An employee with not less than three months continuous service with Fresenius Medical Care, who is absent from work by reason of personal illness or personal injury arising out of or in the course of employment, shall be entitled to leave of absence without deduction of pay subject to the following conditions and limitations:
 - 10.1.1 They shall, unless it is not reasonably practicable to do so (proof whereof shall be on the employee) before their agreed starting time on the first day of their absence, and in any event within twenty-four hours, inform the Production Manager of their inability to attend for duty, and as far as practicable state the nature of the illness or injury and the estimated duration of absence.
 - 10.1.2 They shall furnish to the employer such evidence as the employer may reasonably desire that they were unable by reason of such illness or injury to attend for duty on the day and days for which sick leave is claimed. A Doctor's certificate is required after a two-day sick leave.
 - 10.1.3 They shall not be entitled to paid sick leave in excess of 38 hours of agreed working time in their first year of service.
 - 10.1.4 If their employment continues with the company, after the first year this entitlement shall be 60.8 hours for second year of service; 60.8 hours for the third year of service; 60.8 hours for the fourth year of service; 76 hours for the fifth year of service, and for each subsequent year of continued employment.
 - 10.1.5 If the employment of an employee who has become entitled to leave in accordance with provision (d) above is terminated for any reason, they shall not be entitled, in that year to leave in excess of 38 hours of agreed working time.
- 10.2 The rights under this clause shall accumulate from year to year so long as their employment continues with the employer, so that any part of the leave entitlement which has not been allowed in any year may be claimed by the employee and shall be allowed by that employer, subject to the condition prescribed by this clause, in a subsequent year of continued employment.
- 10.3 If a Gazetted holiday occurs during an employee's absence on sick leave then such award holiday shall not be counted as sick leave.
- 10.4 Service before the date of this award coming into force shall be counted as service for the purpose of assessing the sick leave entitlement.
- 10.5 Accumulated sick leave credited to an employee at the commencement of this award shall not be affected nor reduced by the operation of this clause.
- 10.6 The initial sick leave year shall commence from the date of employment and subsequent entitlement shall accrue at the beginning of each year's service thereafter.
- 10.7 Accumulated sick leave shall not be paid out if the employee is terminated or leaves the company for any reason.

- 10.8 An employee may elect to be paid an attendance bonus each year, which will be the equivalent of the balance of the unpaid sick leave at the employee's last anniversary date. An employee must have a minimum of 114 hours (3 weeks) sick leave accumulated and unutilised, after encashing the unpaid sick leave as attendance bonus.
- 10.9 On termination the attendance bonus will be paid out equivalent to all unpaid sick leave entitlements over the 114 hours (3 weeks).

11. Annual Leave

- 11.1 A period of 152 hours of agreed working hours shall be allowed annually to an employee after twelve months continuous service.
- 11.2 An employee shall accrue annual leave at the rate of 2.923 hours for each 8 ordinary working hours worked.
- 11.3 Annual leave accrued can be taken as agreed to between the employee and employer; but leave accrued in excess of 190 agreed working hours must be taken as directed by the employer.
- 11.4 Other provisions of the *Annual Holidays Act* 1944 must be followed.

12. Annual Leave Loading

- 12.1 This clause applies only to annual holidays to which employees become or have become entitled after 31 December 1983.
- 12.2 In the clause the *Annual Holidays Act*, 1944, is referred to as the "Act".
- 12.3 Before an employee is given and takes their annual holiday, or where by agreement between the employer and employee the annual holiday is given and taken in more than one separated period, then before each of such separate periods, the employer shall pay the employee a loading determined in accordance with this clause. (NOTE: The obligation to pay in advance does not apply where an employee takes an annual holiday wholly or partly in advance - see subclause 12.7 of this clause).
- 12.4 The loading is payable in addition to the pay for the period of holiday given and taken and due to the employee under clause 10 of this award.
- 12.5 The loading is to be calculated in relation to any period of annual holiday to which the employee becomes or has become entitled where such a holiday is given and taken in separate periods, then in relation to each such separate period.
- 12.6 The loading is the amount payable for the period or the separate period, as the case may be, stated in subclause 12.5 of this clause, at the rate of 17.5 per cent of the appropriate ordinary classification in which the employee was employed immediately before commencing their annual leave holidays, or on the basis of the employee's annual average hours.
- 12.7 No loading is payable to an employee who takes an annual holiday wholly or partly in advance; provided that, if the employment of such an employee continues until the day when they would have become entitled under the Act to an annual holiday, the loading then becomes payable in respect of the period for such holiday and is to be calculated in accordance with subclause 12.6 of this clause, applying the award rates of wages payable on that day.
- 12.8 Where, in accordance with the Act the employer's establishment or part of it is temporarily closed down for the purpose of giving an annual holiday or leave without pay to the employees concerned:
- 12.8.1 An employee who is entitled under the Act to an annual holiday and who is given and takes such a holiday shall be paid the loading calculated in accordance with subclause 12.6 of this clause.

- 12.8.2 An employee who is not entitled under the Act to an annual holiday and who is given and takes leave without pay shall be paid in addition to the amount payable to them under the Act such proportion of the loading that would have been payable to them prior to the close-down as their qualifying period of employment in completed weeks bears to 52.

12.9 Termination of Employment

- 12.9.1 When the employment of an employee is terminated by the employer for a cause other than misconduct, and at the time of the termination, the employee has not been given and has not taken the whole annual holiday to which they became entitled, they shall be paid a loading calculated in accordance with this clause, for the period not taken.
- 12.9.2 Except as provided by paragraph 12.9.1 of this subclause no loading is payable on the termination of an employee's employment.

13. Long Service Leave

As per NSW *Long Service Leave Act 1955*

14. Bereavement Leave

- 14.1 A fulltime permanent employee on weekly hiring, covered by this award, shall be entitled to five (5) days' bereavement leave per year without loss of pay and on production of satisfactory evidence of the death of the employee's spouse/partner (including de facto), father, mother, brother, sister, child, stepchild, grandchild, grandparents or parent-in-law.
- 14.2 For the purposes of this clause the words "wife" and "husband" shall include de-facto wife or husband and the words "father" and "mother" shall include foster-father and mother, and stepfather and mother.
- 14.3 Provided there is an on-going personal relationship or the employee can demonstrate some other special relationship warranting the granting of the leave.
- 14.4 Provided further that generally an employee will not be entitled to the full five days unless he/she is responsible for funeral arrangements.
- 14.5 An employee shall not be entitled to bereavement leave under this clause during any period in respect of which the employee has been granted other leave.
- 14.6 Bereavement leave may be taken in conjunction with other leave available under subclauses (2) (3) (4) (5) and (6) in the said clause (Personal carers clause). In determining such a request the employer will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

15. Parental Leave

- 15.1 As per NSW *Industrial Relations Act 1996*, Employees' parental leave to be without deduction of pay for the first two (2) days.

16. Protective Clothing

- 16.1 Where necessary, for the safe performance of their duties, employees shall be provided with suitable personal protective equipment as required. Three (3) sets of trousers and shirts will be provided to all employees, and will be replaced as required.

- 16.2 Any employee issued with protective clothing in accordance with subclause 16.1 of this clause must wear such clothing whilst engaged on work for which it was deemed necessary for protective clothing to be issued.
- 16.3 Warehouse/Production employees will be supplied with a maximum of one (1) jacket per year.
- 16.4 Clothing and equipment shall remain the property of the employer.

17. Contract of Employment

- 17.1 After the first three (3) months continuous service, employment shall be by the week and may be terminated by a week's notice on either side or by the payment or forfeiture of one week's wages in lieu of notice as the case may be.
- 17.2 Employment for the first three months of continuous service shall be from day to day at a proportion of the weekly rate fixed.
- 17.3 An employer shall not be required to pay for any time an employee cannot be usefully employed because of any strike, or through any breakdown in machinery or any stoppage of work through any cause for which the employer cannot be reasonably held responsible.
- 17.4 An employer may dismiss any employee without notice for malingering, inefficiency, neglect of duty or misconduct and in such cases wages shall be paid up to the time of dismissal only.

18. Payment of Wages

- 18.1 All wages and overtime shall be paid on a fortnightly basis.
- 18.2 The pay period shall close not more than two working days prior to the recognised pay day.
- 18.3 Payment will be made by electronic funds transfer to a bank account nominated by the employee.

19. Shiftwork

- 19.1 This clause is to apply to permanent shift work.

Definitions:

- 19.1.1 "Afternoon shift" means any shift finishing after 6pm and at or before midnight.
- 19.1.2 "Continuous work" means work carried on with consecutive shifts of employees throughout the 24 hours of each of at least six consecutive days without interruption except during breakdowns or meal breaks, or due to unavoidable causes beyond the control of the employer.
- 19.1.3 "Night Shift" means any shift finishing subsequent to midnight and at or before 8am.
- 19.1.4 "Rostered Shift" means a shift of which the employee concerned has at least 48 hours notice.

- 19.2 Hours - Continuous Work Shift

This subclause applies to shift work as herein defined. The ordinary hours of shiftworkers shall average 38 per week, inclusive of crib time, and shall not exceed 15 hours in 28 consecutive days. Provided that where the employer and the majority of the employees concerned agree, a roster system may operate on the basis that the weekly average of 38 hours is achieved over a period which exceeds 28 consecutive

days. Subject to the following conditions, such shift workers shall work at such times as the employer may require.

A shift shall consist of not more than ten hours inclusive of crib time, provided that:

19.2.1 By agreement between the employer, the Union(s) concerned and/or the majority of employees concerned, ordinary hours not exceeding twelve on any day may be worked subject to:

suitable roster arrangements being made, and

proper supervision being provided.

19.2.2 Except at the regular change over of shifts an employee shall not be required to work more than 1 shift in each 24 hour period.

19.2.3 Ten minutes shall be allowed to shift workers each shift as crib, which shall be counted as time worked. If a shift is greater than 9 hours, a 30 minute crib break will be allowed.

19.3 Hours - Other than continuous work

19.3.1 This subclause shall apply to shift workers not on continuous work as herein defined. The ordinary hours of work shall be an average of 38 hours per week, to be worked on the following basis:

19.3.1.1 10 hours during any consecutive 24 hours

19.3.1.2 38 hours per week

19.3.1.3 76 hours in 14 consecutive days, or

19.3.1.4 1 14 hours in 21 consecutive days, or

19.3.1.5 152 hours in 28 consecutive days.

Provided that:

The ordinary hours of work prescribed herein shall not exceed 10 hours on any day.

By agreement between an employer, the Union and the majority of employees in the plant or work section/s concerned, ordinary hours not exceeding 12 on any day may be worked subject to:

suitable roster arrangements being made

proper supervision being provided.

The method of working shifts and the time of commencing and finishing shifts may in any case be varied by agreement between the employer and the employees concerned to suit the circumstances. The time of commencing and finishing shifts once having been determined, may be varied by agreement between the employer and the accredited representative of the Union to suit the circumstances, or in the absence of agreement, by 7 days notice of alteration given by the employer to the employees.

19.4 Shift Allowances

19.4.1 Shift workers whilst on afternoon shift shall be paid an allowance of 17.5% of the ordinary rate of pay per week, in addition to the rates payable under this Award.

- 19.4.2 Shift workers, whilst on night shift, shall be paid an allowance of 20% if the ordinary rate of pay per week, in addition to the rates of pay under the Award.
- 19.4.3 The employer will give the employee at least 20 days notice (less by mutual agreement) before starting permanent shift work.

20. Training

- 20.1 Fresenius Medical Care will implement an agreed training plan that aims to allow employees to enhance their career path opportunities and reclassification. This will be implemented by mutual agreement between the employee and Fresenius Medical Care.
- 20.2 Promotion from one classification to another will be based on successful completion of a nominated training program. This program will include a basic literacy and numeracy training. Agreed modules will be developed to suit company requirements.
- 20.3 The company will pay all fees and sundry expenses associated with company approved training programs.
- 20.4 The mutual benefit of training is agreed to, with both parties getting advantages, and to this end preference will be given and all efforts made to organize all training during normal working hours. Where attendance cannot be achieved during normal work hours, time in lieu will be provided, or ordinary rate paid.
- 20.5 Overtime rates will not be paid for any training.
- 20.6 For external courses, the level of company reimbursement for fees, books and time off must be agreed by the company prior to commencement of the course.
- 20.7 Where there is mutual agreement between Fresenius Medical Care and the employee, the training, where possible, will be undertaken during normal working hours without loss of pay.

21. Performance Appraisal

- 21.1 The performance of the Team Leaders will be formally appraised by their Manager when there is a substantial change in responsibility or performance. This appraisal will be used as a basis for:
- Adjusting the wage rate
- Analysing training needs
- Counselling
- 21.2 The performance of each team member will be appraised by the Team Leader. This appraisal will be used as a basis for:
- Recommending a change of classification to Management
- Analysing training needs
- Counselling
- 21.3 The employees shall have access to all information and shall have all the right of appeal to the Production Manager.

- 21.4 Continuing disputes on appraisal are to be referred to a committee consisting of 2 company and 2 union representatives. Any further dispute is to be handled as per the method detailed in clause 28.

22. Productivity Measures

- 22.1 The parties to this Award are committed to the development and improvement of the business. Key performance indicators for reviewing this development include, but are not limited to:

Workers Compensation premium cost

Accident Frequency

Accident Severity

Customer service levels as measured by:

Delivery Advices out by the due date

Manufacturing orders completed by the due date

Inventory accuracy.

Productivity levels based on a basket of products

Order assembly costs as a percentage of sales

Labour efficiency compared to standard

Company profitability as measured by earning before tax and interest Overtime as a percentage of normal labour

AS3902 measures

- 22.2 These indicators will be developed during the life of this Award to enable assessment to be made on productivity improvements and to provide a formula for future wage increases.

23. Accident Pay

The employer will pay an employee who is absent through injuries and is covered by Workers' Compensation. They shall be paid equivalent to their ordinary rate (based on 38 hour week) for 26 weeks and then at the rate set by their Workers' Compensation entitlement.

24. First Aid Attendant and Ambulance Chest

A first-aid and ambulance chest, fully equipped and maintained, shall be placed in a position available to all departments at any time when work is being carried on (See section 60 of the *Factories, Shops and Industries Act*, 1962).

25. Amenities

The requirements in relation to amenities shall conform at least to the minimum requirements set out in the guide to welfare facilities and amenities provided under the Factory and Industrial Welfare Board as constituted by the *Factories, Shops and Industries Act*, 1962, as amended.

26. Right of Entry

See section 298 of the *Industrial Relations Act*, 1996 as amended.

27. Mechanisation

Where, on account of the introduction or proposed introduction by an employer of mechanisation or technological changes in the industry in which they are en-aged, the employer terminates the employment of an employee who has been employed for the preceding twelve months, the employer shall give the employee one month's notice of their termination of employment; provided that, if the employer fails to give such notice in full, they shall pay the employee at the ordinary rate of pay applicable under this Award for period equal to the difference between one month and the period of the notice given shall be deemed to be service with the employer for the purpose of the *Long Service Leave Act, 1955*, the *Annual Holidays Act, 1944*, or any Act amending or replacing wither of those Acts; and provided further that the right of the employer summarily to dismiss an employee for malingering, inefficiency, neglect of duty, or misconduct shall not be prejudiced by the fact that the employee has been given notice pursuant to this clause of the termination of their employment.

28. Counselling and Disciplinary Procedure

28.1 This clause shall not apply where the actions and/or behaviour of an employee are such as to constitute grounds for summary dismissal.

28.2 In any reasonable case where the actions and/or behaviour of an employee are unacceptable to the employer the employee shall be counselled.

28.3 The following counselling procedures shall apply:

28.3.1 The employee shall be verbally counselled in the presence of the Union delegate or any other authorised union representative. The employer shall clearly identify the unacceptable actions and/or behaviour and advise on corrective measures and a review date.

28.3.2 Where the initial counselling has failed to correct the unacceptable actions and/or behaviour, a further review will occur and will incorporate a final written warning to the employee identifying the unacceptable actions and/or behaviour the corrective measures required, review date and advise of subsequent steps which may be taken, including termination of employment.

28.3.3 If no change occurs by the review date the employer may consider the options of disciplinary leave or termination. After review of all the facts the employer may exercise the options available and direct the employee on disciplinary leave or give notice of termination.

28.3.4 Where warnings have been made under the procedure prescribed herein, and a subsequent -review shows that the appropriate corrective measures have been taken, then the warnings shall be withdrawn after the expiration of 12 months period.

28.4 Disciplinary leave as referred to in paragraph 28.3.3 above shall be applied on the following basis:

28.4.1 In accordance with subclause paragraph 28.3.3 above, the employee concerned should be directed to go on disciplinary leave. Such leave shall be without pay and shall be for a period of not more than 76 agreed working hours.

28.4.2 Once an employee has been directed on disciplinary leave, termination shall occur automatically if the unacceptable action and/or behaviour occurs again.

29. Settlement of Dispute Procedure

29.1 Any grievance or dispute arising out of employment shall be referred by the employee or group of employees to, in the first instance, the most appropriate supervisor.

- 29.2 Failing settlement at this level the matter shall be referred by the employee/s to the Department Manager and Human Resource Manager.
- 29.3 If the grievance or dispute has not been resolved, the Union Delegate may refer the matter within 48 hours to the Union Organiser, who will take the matter up with the employer.
- 29.4 All efforts shall be made by the employer and the Union Organiser to settle the matter, but failing settlement, the Union Organiser shall refer the grievance or dispute to their representative.
- 29.5 During discussion, the status quo shall remain and work shall proceed normally "Status Quo" shall mean the situation existing immediately prior to the grievance or dispute or the matter giving rise to the grievance or dispute.
- 29.6 At any time either party shall have the right to notify the matter to the Industrial Register.

30. Sunday/Public Holiday Pay

- 30.1 Employees shall be paid at the rate of double time for work done on Sunday.
- 30.2 All employees required to work on a public holiday shall be paid at the rate of double time and a half.

31. Medical Check

- 31.1 Members will be paid four ordinary hours per annum to attend the AWU doctor for a medical check.
- 31.2 A certificate of attendance may be requested.
- 31.3 It will not be compulsory.

32. Area, Incidence and Duration

- 32.1 This Award will replace wholly the terms and conditions of the Drug Factory State Award published 1 June 2001 (325 I.G. 1) and the Fresenius Medical Care Australia Pty Ltd, (Smithfield) Site Enterprise Award 1999-2000 as it applies to all employees performing work on the site herein specified covered by this Award.
- 32.2 This Award shall take effect from the 1st January 2003 and shall continue in force until December 2004.

33. Redundancy

33.1 Notice of Redundancy

Where Fresenius Medical Care has made a definite decision to retrench an employee(s) and this is not due to the ordinary and customary turnover of labour, the Company undertakes to provide the maximum possible period of notice to the employee(s) concerned, and their Union.

Following this notification, the Company will allow the equivalent of one day off per week to any affected employees in order to attend job interviews.

33.2 Method of Selection

It is the aim of Fresenius Medical Care and accepted by the Union that the Company's continued operation is of primary concern. It is clear that Fresenius Medical Care must be viable to ensure continued employment opportunities. Any redundancies must be approached in this manner.

Where Fresenius Medical Care has made a definite decision that it no longer wishes the job to be performed by anyone, and that decision may lead to the termination of employment, Fresenius shall hold discussions with the Union immediately.

For the purpose of discussion Fresenius Medical Care shall provide to the Union, all relevant information about the proposed termination including the reasons for the proposed terminations, the number and categories of employees likely to be affected, and the number of workers normally employed and the period over which the terminations are likely to be carried out, provided that Fresenius Medical Care shall not disclose confidential information, the disclosure of which would adversely affect the Company.

Any redundancies must be approached in this light and will be by the following process:

- (a) Fresenius Medical Care will seek expressions of interest from employees concerned on a possible offer of voluntary redundancy.
- (b) When or if a redundancy situation occurs, Fresenius Medical Care will approach all persons who have made an expression of interest and will confirm this acceptance in writing. Upon request by the employee, severance details shall be supplied.
- (c) Fresenius Medical Care reserves the right not to agree to all acceptances of voluntary redundancies in certain situations.
- (d) Fresenius Medical Care selects employees from the voluntary redundancies firstly, however, if insufficient numbers of employees accept voluntary redundancy, Fresenius Medical Care will then select employees to be made redundant according to skill, flexibility, competency and to meet the Company's requirements.
- (e) If alternative employment is available on another site, then Fresenius Medical Care shall advise the affected employee/s and their Union. The affected employee/s may take such opportunity for a trial period of up to six months.

33.3 Redundancy

- (a) Each employee who is made redundant shall receive 4 weeks pay at ordinary time i.e excluding overtime. This payment is in lieu of any notice.
- (b) Each employee who is made redundant shall receive 4 weeks pay at ordinary time for each completed year of service. The maximum payment, including the 4 weeks pay in lieu of notice, shall not exceed 52 weeks.
- (c) Each employee who is made redundant shall receive payment of all accumulated sick pay on the date of their termination.
- (d) Long Service leave shall be paid according to the appropriate legislation.
- (e) Superannuation payments will be made in accordance with the terms of the trust deed(s) and will not effect the above mentioned payments.
- (f) Each employee who is made redundant shall receive annual leave entitlements and pro rata annual leave loadings.

33.4 Misconduct

Subject to clause 28, misconduct will negate redundancy entitlements.

34. Superannuation

On or before the twenty eighth day of each month Fresenius Medical Care will pay into the approved superannuation fund, the Australian Public Superannuation (APS) Fund or the Colonial Master Fund, the total sum of the weekly contribution amounts accrued the previous month on behalf of each employee, in addition to

any other voluntary contribution made in respect of superannuation. The choice of an approved superannuation fund to be the decision of the employee.

The "Employer's Contribution" shall be fully vested in each employee's name and be subject to the preservation and portability requirements of the Australian Government Occupational Superannuation Guidelines. Fresenius Medical Care does not agree to Superannuation contribution to be at pre-injury level whilst the employee is in receipt of worker's compensation payments for up to a minimum of 52 weeks. We will maintain Commonwealth legislation.

35. Rehabilitation Provider

Fresenius Medical Care nominates Australian Injury Management Pty Limited, which has been certified by WorkCover, New South Wales, as their preferred rehabilitation provider for injured workers.

36. Union Leave

- 36.1 Union Delegates are collectively entitled to a maximum of two (2) days' paid union training leave.
- 36.2 Employees will be allowed to attend on-site union meetings for up to one hour per month without loss of pay, provided that these meetings take place at appropriate times that do not interrupt production.
- 36.3 Union Delegates are entitled to five (5) days' unpaid union meeting/training leave per annum.

37. Entitlements Protection

Fresenius Medical Care does not agree that all employees, who are members of the Australian Workers' Union, Greater New South Wales Branch to whom this enterprise agreement applies, shall have their accrued entitlements to long service leave, annual leave, retrenchment provisions and any other accrued benefit insured through a licensed insurance broker approved and endorsed by the Australian Worker's Union, Greater New South Wales Branch.

38. Mixed Functions/Higher Duties

- 38.1 Where an employee is engaged for more than two (2) hours during one day or shift, to perform the work of a higher classification, the employee will be paid at the higher rate as detailed in this Award for such day or shift.
- 38.2 Where an employee is engaged for less than two (2) hours during one day or shift, the employee will be paid at the higher rate as detailed in this Award for the time so worked.

39. Anti Discrimination

Fresenius Medical Care will refer to their company policies on Equal Employment Opportunity and Anti Discrimination.

- 39.1 It is the intention of the parties bound by this award to seek to achieve the object in section 3(f) of the *Industrial Relations Act* 1996 to prevent and eliminate discrimination in the workplace. This includes discrimination on the grounds of race, sex, marital status, disability, homosexuality, transgender identity, age and responsibilities as a carer.
- 39.2 It follows that in fulfilling their obligations under the dispute resolution procedure prescribed by this award, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effects. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 39.3 Under the *Anti-Discrimination Act* 1977, it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 39.4 Nothing in this clause is to be taken to affect:

- (i) any conduct or act which is specifically exempted from anti-discrimination legislation;
- (ii) offering or providing junior rates of pay to persons under 21 years of age;
- (iii) any act or practice of a body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act 1977*;
- (iv) a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.

39.5 This clause does not create legal rights or obligations in addition to those imposed upon the parties by legislation referred to in this clause.

NOTES -

(a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.

(b) Section 56(d) of the *Anti-Discrimination Act 1977* provides:

“Nothing in this Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.”

40. Period of Operation

This Award shall commence from 01 January 2003 and shall remain in force until 31 December 2004. This Award will be reviewed and negotiations will commence two (2) months prior to the expiry of this Award.

41. Personal/Carer's Leave

(1) Use of Sick Leave -

- (a) An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subparagraph (ii) of paragraph (c) who needs the employee's care and support shall be entitled to use, in accordance with this subclause, any current or accrued sick leave entitlement provided for in clause 10 of the sick leave clause for absences to provide care and support for such persons when they are ill. Such leave may be taken for part of a single day.
- (b) The employee shall, if required, establish, either by production of a medical certificate or statutory declaration the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take carer's leave under this subclause where another person has taken leave to care for the same person.
- (c) The entitlement to use sick leave in accordance with this subclause is subject to:
 - (i) the employee being responsible for the care of the person concerned; and
 - (ii) the person concerned being:
 - (a) a spouse of the employee; or
 - (b) a de facto spouse who, in relation to a person, is a person of the opposite sex to the first mentioned person who lives with the first mentioned person as the husband or wife of that person on a bona fide domestic basis although not legally married to that person; or
 - (c) a child or an adult child (including an adopted child, a stepchild, a foster child or an ex-nuptial child), parent (including a foster parent and legal guardian),

grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or

(d) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or

(e) a relative of the employee who is a member of the same household where, for the purposes of this subparagraph:

(1) "relative" means a person related by blood, marriage or affinity;

(2) "affinity" means a relationship that one spouse, because of marriage, has to blood relatives of the other; and

(3) "household" means a family group living in the same domestic dwelling.

(d) An employee shall, wherever practicable, give the employer notice, prior to the absence, of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the employer by telephone of such absence at the first opportunity on the day of absence.

(2) Unpaid Leave for Family Purpose -

(a) An employee may elect, with the consent of the employer, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subparagraph (ii) of paragraph (c) of subclause (1) who is ill.

(3) Annual Leave -

(a) An employee may elect, with the consent of the employer, subject to the *Annual Holidays Act* 1944, to take annual leave not exceeding five days in single-day periods or part thereof in any calendar year at a time or times agreed by the parties.

(b) Access to annual leave, as prescribed in paragraph (a) of this subclause, shall be exclusive of any shutdown period provided for elsewhere under this award.

(c) An employee and employer may agree to defer payment of the annual leave loading in respect of single-day absences until at least five consecutive annual leave days are taken.

(4) Time Off in Lieu of Payment for Overtime -

(a) For the purpose only of providing care and support for a person in accordance with subclause (1) of this clause, and despite the provisions of clause 7 above, the following provisions shall apply:

(b) An employee may elect, with the consent of the employer, to take time off in lieu of payment for overtime at a time or times agreed with the employer within 12 months of the said election.

(c) Overtime taken as time off during ordinary-time hours shall be taken at the ordinary-time rate, that is, an hour for each hour worked.

(d) If, having elected to take time as leave in accordance with paragraph (b) of this subclause, the leave is not taken for whatever reason, payment for time accrued at overtime rates shall be made at the expiry of the 12-month period or on termination.

(e) Where no election is made in accordance with the said paragraph (b), the employee shall be paid overtime rates in accordance with the award.

(5) Make-up Time -

- (a) An employee may elect, with the consent of the employer, to work "make-up time", under which the employee takes time off ordinary hours and works those hours at a later time during the spread of ordinary hours provided in the award, at the ordinary rate of pay.
 - (b) An employee on shift work may elect, with the consent of the employer, to work "make-up time" (under which the employee takes time off ordinary hours and works those hours at a later time) at the shift work rate which would have been applicable to the hours taken off.
- (6) Rostered Days Off -
- (a) An employee may elect, with the consent of the employer, to take a rostered day off at any time.
 - (b) An employee may elect, with the consent of the employer, to take rostered days off in part day amounts.
 - (c) An employee may elect, with the consent of the employer, to accrue some or all rostered days off for the purpose of creating a bank to be drawn upon at a time mutually agreed between the employer and employee, or subject to reasonable notice by the employee or the employer.
 - (d) This subclause is subject to the employer informing each union which is both party to the award and which has members employed at the particular enterprise of its intention to introduce an enterprise system of RDO flexibility and providing a reasonable opportunity for the union(s) to participate in negotiations.

42. No Further Claims

There shall be no further claims made during the term of this Award.

SCHEDULE 1

Wage Rates

	Hourly Rates	
	1-Jan-03	1-Jan-04
Team Member		
Team Leader	20.3507	20.9612
TM Level I	17.3287	17.8486
TM Level II	16.2615	16.7493
TM Level III	15.8627	16.3386
TM Level IV	15.0666	15.5186
Casual	16.7136	17.2150

	Weekly Rates	
	1-Jan-03	1-Jan-04
Team Member		
Team Leader	773.33	796.53
TM Level I	658.49	678.25
TM Level II	617.94	636.47
TM Level III	602.78	620.87
TM Level IV	572.53	589.71
Casual	635.12	654.17

J. P. GRAYSON D.P.

Printed by the authority of the Industrial Registrar.

(1621)

SERIAL C2185

DEVRO PTY LIMITED OPERATING EMPLOYEES AWARD 2003

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Devro Pty Limited.

(No. IRC 3553 of 2003)

Before Commissioner Cambridge

7 August 2003

AWARD

Arrangement

Clause No.	Subject Matter
1.	Title
2.	Area, Incidence and Duration
3.	Anti-Discrimination
4.	Consultative Committee
5.	Disputes Procedure
6.	Rates of Pay and Classification Structure
7.	Payment of Wages
8.	Terms of Employment
9.	New Technology
10.	Termination, Change and Redundancy
11.	Abandonment of Employment
12.	Allowances
13.	Training
14.	Mixed Functions
15.	Superannuation
16.	Superannuation Salary Sacrifice
17.	Hours of Work
18.	Overtime
19.	Annual Leave
20.	Bereavement Leave
21.	Personal/Carer's Leave
22.	Public Holidays
23.	Long Service Leave
24.	Parental Leave
25.	Sick Leave
26.	Jury Service
27.	Accommodation
28.	Manning Levels
29.	Job Description Committee
30.	Disciplinary Procedure
31.	Union Recognition, Right of Entry and Membership
	Annexure A - Salary Rates
	Annexure B - Senior Operators
	Annexure C - Drop Tests

Addendum A - Absenteeism Monitoring Committee

1. Title

- 1.1 This award shall be known as the Devro Pty Limited Operating Employees Award 2003.

2. Area, Incidence and Duration

- 2.1 This award shall have operation at Devro Pty Limited's premises at 139 Sydney Road Kelso NSW 2795 and at 46 Vale Road Bathurst NSW 2795 in respect of operating employees who are, or are eligible to be, members of The Australasian Meat Industry Employees' Union, New South Wales Branch.
- 2.2 The award shall be binding upon:
- (a) Devro Pty Limited (hereinafter referred to as "the Company") in respect of its premises at 139 Sydney Road Kelso NSW 2795 and at 46 Vale Road Bathurst NSW 2795 and all operating employees in the classifications contained herein; and

- (b) The Australasian Meat Industry Employees' Union, New South Wales Branch (hereinafter referred to as "the Union").
- 2.3 This award rescinds and replaces the Devro Pty Limited Operating Employees Award 2002 published 1 November 2002 (336 I.G. 997), made pursuant to the *Industrial Relations Act* 1996 (NSW), and all other agreements, whether registered or not, made by the parties bound hereby.
- 2.4 This award will take effect from the beginning of the first full pay period on or after 27 June 2003. The wage rates prescribed in Annexure A shall be payable from the first pay period on or after 3 February 2003, provided that there is no industrial action, bans or limitations imposed.
- 2.5 The award shall remain in force until 3 February 2005. If the parties to the award agree, the operation of the award may be extended to 3 February 2006, provided this option is exercised before 30 June 2004.
- 2.6 If the option to extend referred in subclause 2.5 of this clause is exercised and the parties comply with the dispute procedure contained in clause 5 of the award for the operation of the award, employees will be entitled to an additional bonus payment, as set out in Appendix A.
- 2.7 The Company reserves the right not to consent to the application if the application seeks to vary any other part of this award.

3. Anti-Discrimination

- 3.1 It is the intention of the parties bound by this award to seek to achieve the objective of in section 3(f) of the *Industrial Relations Act* 1996 (NSW), to prevent and eliminate discrimination in the workplace on the grounds of race, sex, marital status, disability, homosexuality, transgender identity age and responsibilities as a carer.
- 3.2 It follows that, in fulfilling their obligations under the dispute resolution procedure prescribed by this award, the parties have obligations to take all reasonable steps to ensure that the operation of the provisions of this award are not directly or indirectly discriminatory in their effect. It will be consistent with the fulfilment of these obligations for the parties to make application to vary any provision of the award which, by its terms or operation, has a direct or indirect discriminatory effect.
- 3.3 Under the *Anti-Discrimination Act* 1977 (NSW), it is unlawful to victimise an employee because the employee has made or may make or has been involved in a complaint of unlawful discrimination or harassment.
- 3.4 Nothing in this clause is to be taken to affect:
 - (a) any conduct or act which is specifically exempted from anti-discrimination legislation;
 - (b) offering or providing junior rates of pay to persons under 21 years of age;
 - (c) any act or practice of body established to propagate religion which is exempted under section 56(d) of the *Anti-Discrimination Act* 1977 (NSW); or
 - (d) a party to this award from pursuing matters of unlawful discrimination in any State or Federal jurisdiction.
- 3.5 This clause does not create legal rights or obligations in addition to those imposed upon by the parties by the legislation referred to in this clause.

NOTES

- (a) Employers and employees may also be subject to Commonwealth anti-discrimination legislation.
- (b) Section 56(d) of the *Anti-Discrimination Act* 1977 provides:

“Nothing in this Act affects ... any other act or practice of a body established to propagate religion that conforms to the doctrines of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.”

4. Consultative Committee

- 4.1 A Consultative Committee which is formed of representatives of the workforce who are elected by the workforce and Company representatives will administer the Productivity Agreement, monitor the Key Performance Indicators and Measurement Criteria and establish payment methods in respect of costs saved.

5. Disputes Procedure

- 5.1 At any stage of a dispute an employee may elect to have an "accredited shop steward" accompany such employees in any discussions undertaken under Steps 1 and 2.
- 5.2 Should the need for a "full-time" Union official be involved in Step 3 and beyond, the Union shall be informed of the dispute.

Step 1

- 5.3 When an employee has a complaint, he/she shall take the matter up with his/her immediate Supervisor. The Supervisor shall discuss the matter with the employee, obtain facts and a clear understanding of the points to be considered.
- 5.4 The Supervisor shall investigate the matter and consult the appropriate persons. He/she shall give an answer as soon as possible and in any case within three working days unless an extension of time is required (during the period Monday to Friday), in which case the employee shall be so informed.
- 5.5 The Supervisor shall ascertain whether his/her answer is satisfactory to the employee and, if not, the Supervisor shall remind the employee that he/she is able to take up the matter with the next higher level in the Company's Management structure.
- 5.6 The employee should indicate his/her desire concerning the complaint when such action is required. The Supervisor shall remind the employee that he/she is able to take up the matter with the next higher level in the Company's Management structure.
- 5.7 The employee should indicate his/her desire concerning the complaint when such action is required. The Supervisor shall arrange the forthcoming interview and inform the employee of time, date and venue.
- 5.8 Should the dispute not be resolved, Step 2 can be implemented.

Step 2

- 5.9 The employee shall discuss the matter with the next level of supervision or other representatives of Management, as appropriate to the department concerned, i.e. Department Head. An answer shall be given to the employee as soon as possible and in any case within one week from the time the matter was referred to the particular Management representatives.

Step 3

- 5.10 The employee who has the complaint shall refer the matter to his/her Union and the Union shall make representations on such employee's behalf to Operations, Production or Engineering Managers, or any combination thereof for decision and finalisation.

Step 4

- 5.11 The Union shall seek finalisation of the matter under dispute via Managing Director of his or her nominated representative/s.

- 5.12 Should this matter not be resolved to satisfaction under the provisions of this Step, Step 5 shall be implemented.

Step 5

- 5.13 The Union and/or the Company shall refer the matter in dispute to the Industrial Relations Commission of NSW.
- 5.14 Work will continue normally whilst the matter is dealt with as provided in Steps 1 through to 5.
- 5.15 It shall be the right of any employee to consult with the accredited Shop Steward or with the appropriate Manager at any stage in this procedure.
- 5.16 This disputes procedure relates to all disputes other than those concerning unsafe practices and unsafe conditions, which shall be dealt with immediately within the scope of the Company's pre-determined safety programme.

6. Rates of Pay and Classification Structure

- 6.1 A weekly employee will be paid the applicable ordinary rate of pay for the classification at which he or she is employed as set out in Annexure A. Senior Operators will be appointed at the discretion of management and the rate payable will be the highest skill level under the Senior Operators' control plus seven and one half per cent.
- 6.2 Additional increases in rates of pay to those contained in Annexure A will be payable in consideration of measures developed through the Productivity Agreement and Workplace Consultative Committee as established in clause 4, Consultative Committee. The extent of any such increases will be determined by the Company in consultation with the Workplace Committee.
- 6.3 The rates of pay contained in Annexure A are all-inclusive rates covering all rates and allowances which, except as otherwise provided by the award, might be payable to employees.
- 6.4 The classification structure for Operators as set out in Annexure A is based upon the position in which the operator is employed at any time.
- 6.5 Multi-skilled Operators will be trained in and complete the cleaning of the Alfa Laval and Break Tank Filters on a daily rotational basis.

7. Payment of Wages

- 7.1 Payment of wages is to be made fortnightly in arrears by direct deposit to an account at either a bank, Reliance Credit Union or St. George Bank, at each employee's option.

8. Terms of Employment

Full-time Employment

- 8.1 An employee not specifically engaged as a part-time or casual employee shall be engaged as a full-time employee.

Part-time Employment

- 8.2 A part-time employee may be engaged pursuant to the provisions of Chapter 2 Part 5 of the *Industrial Relations Act 1996* (NSW).

- 8.3 An employee may be engaged to work on a part-time basis for a constant number of hours which shall average less than the number of hours worked by a weekly employee.
- 8.4 A part-time employee shall be paid the same ordinary hourly rate as a weekly employee and shall be entitled to leave provisions on a pro rata basis.

Casual Employment

- 8.5 A casual employee, in lieu of all leave entitlements under this award, but excepting those derived from the *Annual Holidays Act 1944* (NSW) and *Long Service Leave Act 1955* (NSW), shall be paid a loading of 20 per cent in addition to the appropriate rate of pay.

General Provisions

- 8.6 A full-time and part-time employee shall be paid by the week and, except in the case of misconduct, justifying summary dismissal, the employment may be terminated by either party giving to the other the appropriate notice as prescribed by subclauses 10.13 and 10.14 of clause 10, Termination, Change and Redundancy, or payment or forfeiture of pay in lieu thereof.
- 8.7 This clause shall not affect the right of the Company to dismiss an employee without notice for refusal of duty, malingering, inefficiency, neglect of duty or misconduct, and in such cases the wages shall be payable up to the time of dismissal only.
- 8.8 The Company may direct an employee to carry out such duties as are within the limits of an employee's skill, competence and training, and the employee will follow such direction.

9. New Technology

- 9.1 Should the Company desire to introduce new technology, the following provisions shall apply:
- (a) At least six months before the introduction of any such change or, if it is not practicable to do so, as early as it is practicable to give notice, the Company shall notify the relevant Union in writing of the proposed change or introduction.
 - (b) There shall be a trial period during which the new technology/machinery is to be assessed by the parties as to its effect upon employment.
 - (c) The length of the trial period or any extension of the trial period shall be as agreed between the Company and the Union or, failing agreement, such period or further period as may be ordered.
 - (d) During the trial period a committee of an agreed size comprising a representative or representatives of the Company and the Union shall monitor the operations of the new technology or equipment. Members of the Monitoring Committee shall have full access to any records relating to the operation of the new technology or equipment, including details or records maintained by the Company or the Union of its operation during the trial period.
 - (e) At the conclusion of the trial period the Union and the Company shall confer on any alteration to the previous system required as a result of the introduction of the new technology or equipment. In the absence of agreement as to the appropriate alteration or alterations to be made, the matter shall be notified pursuant to section 130 of the *Industrial Relations Act 1996* (NSW), if not already the subject of proceedings under the *Industrial Relations Act 1996* (NSW).
 - (f) While the foregoing procedures are being followed, work shall proceed normally and without direct action being taken in relation to issues involved in the proposed change or introduction.
 - (g) For the purposes of this clause, "new technology" shall mean any new or significantly different plant, equipment layout or system design in any establishment covered by this award which has not already been valued for the purposes of this award by a tribunal under the *Industrial*

Relations Act 1996 (NSW) or any Act replacing it and in respect of which the Company or their nominated representative seeks a value for the purposes of this award.

10. Termination, Change and Redundancy

Application

- 10.1 This clause shall apply in respect of full-time and part-time persons employed in the classifications specified by this award.
- 10.2 The Company is required to notify the Union in writing of the terminations and, if requested, shall hold discussions with the Union about the said terminations.

The Company's Duty to Notify

- 10.3 Where the Company has made a definite decision to introduce major changes in production, programme, organisation, structure or technology that are likely to have significant effects on employees, the Company shall notify the employees who may be affected by the proposed changes and the Union to which they belong.
- 10.4 "Significant effects" include termination of employment, major changes in the composition, operation or size of the Company's workforce or in the skills required, the elimination or diminution of job opportunities, promotion opportunities or job tenure, the alteration of hours of work, the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.
- 10.5 Provided that, where this award makes provision for alteration of any of the matters referred to herein, an alteration shall be deemed not to have significant effect.

The Company's Duty to Discuss Change

- 10.6 The Company shall discuss with the employees affected and the Union to which they belong, inter alia, the introduction of the changes referred to in subclauses 10.3, 10.4 and 10.5 of this clause, the effects the changes are likely to have on employees and measures to avert or mitigate the adverse effects of such changes on employees, and shall give prompt consideration to matters raised by the employees and/or the Union in relation to the changes.
- 10.7 The discussions shall commence as early as practicable after a definite decision has been made by the Company to make the changes referred to in the said subclauses 10.3, 10.4 and 10.5.
- 10.8 For the purposes of such discussions, the Company shall provide to the employees concerned and the Union to which they belong all relevant information about the changes, including the nature of the changes proposed, the expected effects of the changes on employees and any other matters likely to affect employees; provided that the Company shall not be required to disclose confidential information the disclosure of which would adversely affect the Company.

Redundancy

Discussions before Termination

- 10.9 Where the Company has made a definite decision that the Company no longer wishes the job the employee has been doing to be done by anyone, pursuant to subclauses 10.3, 10.4 and 10.5 of this clause, and that decision may lead to the termination of employment, the Company shall hold discussions with the employees directly affected and with the Union to which they belong.
- 10.10 The discussions shall take place as soon as practicable after the Company has made a definite decision which will invoke the provision of subclause 10.9 of this clause and shall cover, inter alia, any reason for the proposed terminations, measures to avoid or minimise the terminations and measures to mitigate any adverse effects of any termination on the employees concerned.

- 10.11 For the purpose of the discussions the Company shall, as soon as practicable, provide to the employees concerned and the Union to which they belong all relevant information about the proposed terminations, including the reasons for the proposed terminations, the number and categories of employees likely to be affected, the number of employees normally employed and the period over which the terminations are likely to be carried out. Provided that the Company shall not be required to disclose confidential information the disclosure of which would adversely affect the Company.

Termination of Employment

Notice of Termination

- 10.12 This subclause sets out the notice provisions to be applied to terminations by the Company.
- 10.13 In order to terminate the employment of an employee, the Company shall give to the employee the following notice:

Period of Continuous Service	Period of Notice
Less than 1 year	1 week
1 year and less than 3 years	2 weeks
3 years and less than 5 years	3 weeks
5 years and over	4 weeks

- 10.14 In addition to the notice above, employees over 45 years of age at the time of giving of the notice, with not less than two years' continuous service, shall be entitled to an additional week's notice.
- 10.15 Payment in lieu of the notice above shall be made if the appropriate notice period is not given, provided that employment may be terminated by part of the period of notice specified and part payment in lieu thereof.

Notice for Technological Change

- 10.16 This subclause sets out the notice provisions to be applied to terminations by the Company for reasons arising from technology in accordance with subclauses 10.3, 10.4 and 10.5 of this clause.
- 10.17 In order to terminate the employment of an employee, the Company shall give to the employee three months' notice of termination.
- 10.18 Payment in lieu of the notice above shall be made if the appropriate notice period is not given. Provided that employment may be terminated by part of the period of notice specified and part-payment in lieu thereof.

Time Off during the Notice Period

- 10.19 During the period of notice of termination given by the Company, an employee shall be allowed up to one day's time off without loss of pay during each week of notice, to a maximum of five weeks, for the purpose of seeking other employment.
- 10.20 If the employee has been allowed paid leave for more than one day during the notice period for the purpose of seeking other employment, the employee shall, at the request of the Company, be required to produce proof of attendance at an interview or the employee shall not receive payment for the time absent.

Employee Leaving during the Notice Period

- 10.21 If the employment of an employee is terminated (other than for misconduct) before the notice period expires, the employee shall be entitled to the same benefits and payments under this clause as those to which the employee would have been entitled had the employee remained with the Company until the expiry of such notice. Provided that in such circumstances the employee shall not be entitled to payment in lieu of notice.

Statement of Employment

- 10.22 The Company shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee a written statement specifying the period of the employee's employment and the classification of or the type of work performed by the employee.

Notice to Centrelink

- 10.23 Where a decision has been made to terminate employees, the Company shall notify Centrelink thereof as soon as possible, giving relevant information, including the number and categories of the employees likely to be affected and the period over which the terminations are intended to be carried out.

Employment Separation Certificate

- 10.24 The Company shall, upon receipt of a request from an employee whose employment has been terminated, provide to the employee an Employment Separation Certificate in the form required by Centrelink (or such other organisation responsible for unemployment benefits).

Transfer to Lower-paid Duties

- 10.25 Where an employee is transferred to lower-paid duties for reasons set out in subclauses 10.3, 10.4 and 10.5 of this clause, the employee shall be entitled to the same period of notice of transfer as that to which the employee would have been entitled if the employee's employment had been terminated, and the Company may, at the Company's option, make payment in lieu thereof of an amount equal to the difference between the former ordinary-time rate of pay and the new ordinary-time rates for the number of weeks of notice still owing.

Severance Pay

- 10.26 Where the employment of an employee is to be terminated pursuant to subclauses 10.9, 10.10 and 10.11 of this clause, subject to further order of the Industrial Relations Commission of New South Wales, the Company shall pay the employee the following severance pay in respect of a continuous period of service:
- (a) If an employee is under 45 years of age, the Company shall pay a payment of three weeks' pay for each year, or part thereof, of service up to a maximum of 35 weeks' pay.
 - (b) Where an employee is 45 years of age or over, the entitlement shall be increased by 25 per cent.
 - (c) "Week's pay" means the all-purpose rate for the employee concerned at the date of termination and shall include, in addition to the ordinary rate of pay, over-award payments, shift penalties and allowances.

Incapacity to Pay

- 10.27 Subject to an application by the Company and further order of the Industrial Relations Commission of New South Wales, the Company may pay a lesser amount (or no amount) of severance pay than that contained in subclause 10.26 of this clause.
- 10.28 The Industrial Relations Commission shall have regard to such financial and other resources of the Company concerned as the Commission thinks relevant, and the probable effect paying the amount of severance pay in the said subclause 10.26 will have on the Company.
- 10.29 Alternative Employment - Subject to an application by the Company and further order of the Commission, the Company may pay a lesser amount (or no amount) of severance pay than that contained in the said subclause 10.26 if the Company obtains acceptable alternative employment for an employee.

Savings Clause

- 10.30 Nothing in this award shall be construed so as to require the reduction or alteration of more advantageous benefits or conditions which an employee may be entitled to under any existing redundancy arrangement, taken as a whole, between the Union and the Company bound by this award.
- 10.31 Nothing in this award shall be construed so as to limit the obligation of the Company under clause 9, New Technology.

11. Abandonment of Employment

- 11.1 The absence of an employee from work for a continuous period exceeding three working days without the consent of the Company and without notification to the Company shall be prima facie evidence that the employee has abandoned his/her employment. Provided that:
- (a) If, within a period of 14 days from his/her last attendance at work or the date of his/her last absence in respect of which notification has been given or consent has been granted, an employee has not established to the satisfaction of the Company that he/she was absent for reasonable cause, he/she shall be deemed to have abandoned his/her employment.
 - (b) Termination of employment by abandonment in accordance with this subclause shall operate as from the date of the last attendance at work or the last day's absence in respect of which consent was granted, or the date of the last absence in respect of which notification was given to the Company, whichever is the later.

12. Allowances

Senior Operators

- 12.1 Where the Company appoints a Senior Operator, such employee shall be paid the rate payable to the highest skill level under the Senior Operators control plus seven and one half per cent.

Occupational First Aid

- 12.2 The Company will provide on each shift for one person trained to the level of Occupational First Aid. A payment of \$10.00 per week will apply to each employee chosen by the Company to carry out the Occupational First Aid role.

13. Training

- 13.1 An employee in any area required by his/her Supervisor to act as a trainer of new employees shall be paid an allowance of \$5.00 per day or part thereof during which he/she is engaged in such training.
- 13.2 The period of training for an employee shall be at the discretion of the Supervisor.
- 13.3 This allowance shall not apply to employees whose normal duties include training (e.g. Senior Operators/Leading Hands).

14. Mixed Functions

- 14.1 An employee engaged for more than two hours during one day or shift on duties carrying a higher rate than his ordinary classification shall be paid the higher rate for such day or shift. If he or she is engaged for two hours or less during one day or shift, he shall be paid the higher rate for the time so worked.

15. Superannuation

- 15.1 All employees covered by this award will join the Devro Retirement Benefits Plan and will be bound by the Trust Deed that applies to it.

16. Superannuation - Salary Sacrifice

- 16.1 The Company and an employee may enter into effective salary sacrifice arrangements if:
- (a) the employee requests a salary sacrifice arrangement;
 - (b) the arrangement is settled before the employee earns any right to payment of the amounts to be sacrificed; and
 - (c) the employee signs an election to salary sacrifice prepared by the Company.
- 16.2 The employee may make a request for a salary sacrifice arrangement in accordance with this subclause once annually. This may be varied subject to the approval of the Company.
- 16.3 In the salary sacrifice arrangement, the employee may sacrifice any portion of their base salary (as specified in Annexure A) (including the compulsory employer contribution as specified in relevant legislation) for such salary.
- 16.4 Upon entering into a salary sacrifice agreement, the employee's salary in respect of all purposes, including all entitlements under this award, (as specified in Annexure A) shall be immediately reduced by the amount sacrificed to superannuation as agreed in the writing between the employee and the Company.
- 16.5 The Company or the employee may cancel a salary sacrifice arrangement made under this subclause in the event that changes in relevant legislation or policy materially alter the benefit of the employee or the cost to the Company of the salary sacrifice arrangement.
- 16.6 The implementation of any salary sacrifice arrangement is subject to the terms of the Trust Deed of the Devro Retirement Benefits Plan and the agreement of the Company.

17. Hours of Work

Day Work

- 17.1 The ordinary hours of work for day workers shall not exceed 152 hours in each 28-day cycle to be worked Monday to Friday inclusive. Each day is to be worked as eight hours continuously except for meal breaks. The spread of hours shall be between 6:00 a.m. and 5:30 p.m.
- 17.2 Day workers shall be entitled to an unpaid meal break of a specified duration which shall not be less than 30 minutes or more than one hour. Day workers shall be entitled to one 20 minutes' break each forenoon and one 20 minutes' break each afternoon worked to be paid as working time. Time taken for these breaks shall be mutually agreed between the Company and the employees.

Shift Work

- 17.3 The ordinary hours of work for seven-day continuous shift workers shall not exceed 152 hours in each 28-day cycle. Each shift is to be worked as eight hours continuously. One compulsory overtime shift per 28-day cycle is mandatory for all continuous shift workers.
- 17.4 Three 20-minute crib breaks shall be allowed during each shift, each of which shall be counted as time worked.
- 17.5 A shift worker whilst on afternoon or night shift shall be paid for such shift 20 per cent more than his/her ordinary rate.

- 17.6 All shift work performed on a Saturday will be paid at time and one half ordinary time rates to a shift worker for ordinary hours worked. All shift work performed on a Sunday will be paid at double ordinary time rates. Such penalties are in substitution for and not cumulative upon the shift premiums in subclause 17.5 of this clause.
- 17.7 All shift work performed in excess of or outside the ordinary hours prescribed herein or designated in the roster shall be paid at the rate of double time.
- 17.8 The first eight hours of work performed on a public holiday shall be paid at the rate of double ordinary time in addition to the ordinary day's pay. All work in excess of eight hours shall be paid for at the rate of treble time.
- 17.9 An employee's place on the roster may be altered by giving not less than 48 hours' notice of such change. If less than 48 hours' notice is given, the employee shall be entitled to payment pursuant to subclause 17.7 of this clause until the expiration of 48 hours for all time worked outside his or her ordinary hours.
- 17.10 In this clause and wherever used, the following words or phrases have the following meaning:
- (a) Shift Worker - an employee rostered to work according to a roster providing weekly shift rotation which may include as ordinary working days Saturdays, Sundays and public holidays.
 - (b) Afternoon Shift - a shift finishing after 6:00 p.m. and at or before midnight.
 - (c) Night Shift - a shift finishing subsequent to midnight and at or before 8:00 a.m.

18. Overtime

Day Work

- 18.1 All time worked in excess of eight hours on any day, Monday to Friday inclusive, or outside the hours prescribed for day workers in this award, shall be paid for at time and one half for the first two hours and double time thereafter calculated on a daily basis.
- 18.2 All time worked on Sunday shall be paid for at the rate of double time.
- 18.3 For the purposes of the Finishing Department only, all work in excess of eight hours on a Saturday will be paid for at the rate of double time.
- 18.4 The first eight hours of work performed by day workers on a public holiday shall be paid at the rate of double time in addition to the ordinary day's pay. All work in excess of eight hours shall be paid for at the rate of treble time.
- 18.5 A day worker required to work on a Sunday or public holiday shall be paid for a minimum of four hours' work at the appropriate rate.
- 18.6 A shift worker called in to work on a public holiday other than on his rostered shift shall be paid for a minimum of four hours work at the appropriate rate.

Shift Work

- 18.7 All shift work performed in excess of or outside other ordinary hours prescribed herein or designated in the roster shall be paid at the rate of double time.

Provisions of Meals on Overtime and Crib Breaks

- 18.8 An employee required to work overtime in excess of one and a half hours after working ordinary hours shall either be supplied with a meal upon the production of a food voucher or vouchers by the Supervisor, or paid \$7.75 meal allowance. This is the only occasion on which a meal allowance is

payable. The meal allowance will be increased each year by the percentage increase in the ABS CPI for the weighted average of eight capital cities in respect of the subgroup "Meals out and take away foods" for the June quarter. This increase will be effective on and from the first pay period in June each year.

- 18.9 An employee working overtime shall be allowed a crib time of 20 minutes, without deduction of pay, after each four hours of such time worked.
- 18.10 Unless the period of overtime is less than one and a half hours, an employee, before starting overtime after working ordinary hours, shall be allowed a meal break of 20 minutes which shall be paid for at time and one half. The Company and the employee concerned may agree to any variation of this provision to meet the circumstances of the work in hand, provided that the Company shall not be required to make any payment in respect of any time allowed in excess of 20 minutes.
- 18.11 Crib breaks will be assumed to have been taken unless the time sheet shows otherwise.
- 18.12 Crib breaks are to be seen as part of the overtime period and as such are repaid at the appropriate rate.

19. Annual Leave

- 19.1 All leave is provided as per the *Annual Holidays Act 1944* (NSW).
- 19.2 In addition to the leave provided by subclause 19.1 of this clause, seven-day continuous shift workers, that is, shift workers who are rostered to work regularly on Saturdays, Sundays and public holidays, shall be allowed six days in additional Annual Leave, provided that, if during the year of employment an employee has served a portion of it as a seven-day continuous shift worker, the additional leave shall be one day for every 36 ordinary shifts worked as a seven-day continuous shift worker.

Single-day Leave

- 19.3 Production employees will be permitted to take single-day absences as Annual Leave subject to the following conditions. This will apply equally to day workers and shift workers.
- 19.4 The minimum amount of Annual Leave that will be approved is four hours.
- 19.5 Notice of a request for a single-day absence must be given prior to the day requested on the leave application form.
- 19.6 The Company reserves the right to refuse approval for a single-day absence if less than one day's notice is given or if problems are experienced in organising cover.
- 19.7 Single-day absences will not be approved if they will result in the employee not having enough leave days available for leave periods already planned (e.g. Annual Leave, Christmas Leave, Shutdown Leave).

Notice of Intention to Take Annual Leave

- 19.8 Production employees should tend as much notice as possible to the Company when signifying their intention to take Annual Leave.
- 19.9 A minimum period of two weeks in advance giving notice of intention to proceed on Annual Leave will be the Company requirement.
- 19.10 Exceptional circumstances will always be taken into account and may alter practices as indicated in subclauses 19.8 and 19.9 of this clause.

Period Of Annual Leave

- 19.11 A minimum of 22 days' Annual Leave for shift workers and 17 days for day workers will be required to be taken in any calendar year. Therefore a maximum of three days can be carried forward in the next calendar year.

- 19.12 Employees who do not take the required Annual Leave during the calendar year, following consultation, will be directed to do so. A minimum of one month's notice will be given prior to the allocated days off.
- 19.13 Where possible, unless leave is taken under the conditions of the single-day process, minimum periods of five working days for shift workers and three working days for day workers should be taken.
- 19.14 Where possible, Annual Leave periods should commence or finish with normal "off days" as indicated by the particular employee's shift system.
- 19.15 Employees who have an excessive Annual Leave balance for the previous year can, following consultation and agreement, be directed to take leave. A minimum of one month's notice will be given prior to the allocated days off. This will only apply to those employees who have accrued excessive leave during the life of this award.

Permitted Numbers

- 19.16 The following employees will be permitted to be off on Annual Leave and/or Long Service Leave at any one time:

Primary Collagen Plant	1 Operator
Hide, Gels and Solutions	Shift work - 1 Operator Day work - 1 Operator
Continuous Lines	A Shift - 3 Operators B Shift - 3 Operators C Shift - 3 Operators D Shift - 3 Operators Day work - 1 Operator
Finishing	1 Operator
General Duties	1 Operator
Warehouse	1 Operator
Canteen	1 Operator

- 19.17 Exceptional circumstances will always be taken into account and may alter practices as indicated in subclause 19.16 of this clause.

Application for Annual Leave

- 19.18 Application forms for Annual Leave must be completed by the individual employees and given to his/her immediate Supervisor or Senior Operator.
- 19.19 Approvals for Annual Leave will be processed strictly in accordance with receipt of application forms.
- 19.20 When a leave application is approved, the original of the application form will be passed to the pay office. A copy of the approved form, complete with any endorsements or conditions, may be returned to the applicant if required.

Recording Of Annual Leave Approvals

- 19.21 On approval, Annual Leave will be displayed and recorded on appropriate charts or diaries located in the appropriate departments.

Exceptional Circumstances

- 19.22 Each case claiming "exceptional circumstances" will be considered on merit.

20. Bereavement Leave

- 20.1 An employee, other than a casual employee, shall be entitled to up to four days' Bereavement Leave without deduction of pay, up to and including the day of the funeral, on each occasion of the death in Australia of a person prescribed in subclause 21.3 of clause 21, Personal/Carer's Leave. Provided that, with the consent of the Company, which consent shall not be unreasonably withheld, an employee shall, in addition to this entitlement to paid Bereavement Leave, be entitled to reasonable unpaid Bereavement Leave up to ten working days in respect of the death within Australia or overseas of a person to whom this clause applies.
- 20.2 The employee must notify the Company as soon as practicable of the intention to take Bereavement Leave and will provide, to the satisfaction of the Company, proof of death. Bereavement Leave shall be available to the employee in respect of the death of a person prescribed for the purposes of Personal/Carer's Leave as set out in the said subclause 21.3 provided that, for the purpose of Bereavement Leave, the employee need not have been responsible for the care of the person concerned.
- 20.3 An employee shall not be entitled to Bereavement Leave under this clause during any period in respect of which the employee has been granted other leave.
- 20.4 Bereavement Leave may be taken in conjunction with other leave available under clauses 19, Annual Leave, 21, Personal/Carer's Leave, and 25, Sick Leave. In determining such a request the Company will give consideration to the circumstances of the employee and the reasonable operational requirements of the business.

21. Personal/Carer's Leave

Use of Sick Leave

- 21.1 An employee, other than a casual employee, with responsibilities in relation to a class of person set out in subclause 21.3 of this clause, who needs the employee's care and support, shall be entitled to use, in accordance with this subclause, any current or accrued Sick Leave entitlement, provided for in clause 25, Sick Leave, for absences to provide care and support, for such persons when they are ill, provided that a maximum of eight days' Sick Leave per annum may be used for this purpose. Such Leave may be taken for part of a single day.
- 21.2 The employee shall, if required, establish, either by production of a medical certificate or statutory declaration, the illness of the person concerned and that the illness is such as to require care by another person. In normal circumstances, an employee must not take Carer's Leave under this subclause where another person has taken leave to care for the same person.
- 21.3 The entitlement to use Sick Leave in accordance with this subclause is subject to:
- (a) the employee being responsible for the care of the person concerned; and
 - (b) the person concerned being:
 - (i) a spouse of the employee; or
 - (ii) a de facto spouse who, in relation to a person, is a person of the opposite sex to the first-mentioned person who lives with the first-mentioned person as the husband or wife of that person; or
 - (iii) a child or an adult child (including an adopted child, a stepchild, a foster child or an ex nuptial child), parent (including a foster parent and legal guardian), grandparent, grandchild or sibling of the employee or spouse or de facto spouse of the employee; or
 - (iv) a same sex partner who lives with the employee as the de facto partner of that employee on a bona fide domestic basis; or

- (v) a relative of the employee who is a member of the same household, where for the purposes of this subparagraph:
 - (A) "relative" means a person related by blood, marriage or affinity;
 - (B) "affinity" means a relationship that one spouse because of marriage has to blood relatives of the other; and
 - (C) "household" means a family group living in the same domestic dwelling.
- (c) An employee shall, wherever practicable, give the Company notice prior to the absence of the intention to take leave, the name of the person requiring care and that person's relationship to the employee, the reasons for taking such leave and the estimated length of absence. If it is not practicable for the employee to give prior notice of absence, the employee shall notify the Company by telephone of such absence at the first opportunity on the day of absence.

Unpaid Leave for Family Purpose

- 21.4 An employee may elect, with the consent of the Company, to take unpaid leave for the purpose of providing care and support to a member of a class of person set out in subclause 21.3 of this clause who is ill.

Annual Leave

- 21.5 An employee may elect with the consent of the Company, subject to the *Annual Holidays Act 1944* (NSW), to take Annual Leave not exceeding five days in single-day periods or part thereof, in any calendar year at a time or times agreed by the parties.
- 21.6 Access to Annual Leave, as prescribed in subclause 19.3 of clause 19, Annual Leave, shall be exclusive of any shutdown period provided for elsewhere under this award.
- 21.7 An employee and the Company may agree to defer payment of the Annual Leave loading in respect of single-day absences, until at least five consecutive Annual Leave days are taken.

22. Public Holidays

- 22.1 The following shall be recognised as holidays and, except when they fall on a non-working day, shall be allowed to all weekly employees other than seven-day shift workers on full pay:

New Year's Day, Australia Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Eight Hour Day, Christmas Day and Boxing Day, together with any other day or part-day gazetted and observed throughout the State as a public holiday.

- 22.2 In addition to the holidays prescribed in subclause 22.1 of this clause, one additional day per annum shall be observed as a holiday in lieu of a Picnic Day on a day agreed between the Company and the Unions. In the case of a shift worker, such a day shall be added to Annual Leave if the employee is on Annual Leave at the time the holiday occurs.

23. Long Service Leave

See *Long Service Leave Act 1955* (NSW).

24. Parental Leave

Refer to Chapter 2 Part 4 Divisions 1 and 2 of the *Industrial Relations Act 1996* (NSW).

25. Sick Leave

Entitlement

- 25.1 An employee who is absent from his/her work on account of personal illness or injury shall be entitled to Sick Leave without deduction of ordinary pay in accordance with this clause.
- 25.2 Employees will be entitled to up to eight weeks' Sick Leave per Sick Leave incident.

Conditions and Limitations

- 25.3 Paid Sick Leave shall be subject to the following conditions and limitations.
- (a) An employee shall not be entitled to paid Sick Leave for any period in respect of which he/she is entitled to workers' compensation.
 - (b) An employee who claims to be allowed paid Sick Leave in accordance with this clause for an absence of beyond two days in succession shall not be entitled to payment unless he/she produces to the Paymaster a certificate of a duly qualified medical practitioner that in his/her opinion the employee was unable to attend for duty on account of personal illness or injury.

Sick Leave Control Procedures

- 25.4 A Sick Leave Monitoring Committee will be established consisting of Company representatives and employee representatives elected by their peers. The purpose of the committee will be to develop a Sick Leave control procedure within six months of the date of approval of this award. These procedures will be implemented in accordance with this award (refer to Addendum A).

26. Jury Service

- 26.1 An employee on weekly hiring required to attend for Jury Service during his/her ordinary working hours shall be reimbursed by the Company an amount equal to the difference between the amount paid in respect of his/her attendance for such Jury Service and the amount of salary he/she would have received in respect of the ordinary time he/she would have worked had he/she not been on Jury Service.
- 26.2 An employee shall notify the Company as soon as possible of the date upon which he/she is required to attend for Jury Service. Further, the employee shall give the Company proof of his/her attendance, the duration of such attendance and the amount received in respect of such Jury Service.

27. Accommodation

- 27.1 Subject to the provisions of the *Factories, Shops and Industries Act 1962* (NSW), the Company shall provide for the use of its employees:
- (a) A dressing room, containing hot and cold showers and a dining room.
 - (b) An adequate locker for each employee.
 - (c) Facilities for boiling water and provision for heating food for meals and at rest periods (when boiling water is provided).
 - (d) Adequate first-aid equipment.
- 27.2 Where females are employed, the above dressing, shower and locker facilities shall be separate from the males.
- 27.3 The Company shall cause all accommodation to be kept in a clean and sanitary condition with the co-operation of the employees.

28. Manning Levels

- 28.1 A minimum factory staffing level of 12 operators will apply.
- 28.2 This level of staffing will be used at the discretion of Supervision, dependent upon skill levels and workload requirements.

29. Job Description Committee

- 29.1 A Job Descriptions Committee will be formed of representatives of the workforce who will be elected by the workforce and Company representatives to prepare and agree to job descriptions which outline the various positions covered by this agreement. These descriptions will be filed as an addendum to the award in the future.

30. Disciplinary Procedure

General

- 30.1 This disciplinary procedure is directed towards correcting and/or improving an employee's conduct on occasions when that conduct is unacceptable and to ensure the employee is treated fairly.
- 30.2 The disciplinary procedure, in the majority of cases, shall be used to assist an employee to understand Company policy and requirements.
- 30.3 The Company disciplinary procedure consists of three levels:

Level One	Formal interview
Level Two	Warning
Level Three	Final Warning

- 30.4 The levels of discipline may or may not be administered in a sequential manner depending upon the situation.
- 30.5 The circumstances surrounding an employee's action and the seriousness of those actions will determine what level of the disciplinary procedure is appropriate.
- 30.6 Throughout the application of the disciplinary procedure, employees will be provided with the opportunity to present their own view of the situation and reasons for their conduct.
- 30.7 When an employee disagrees with a formal interview or formal warning, a request to review the disciplinary action may be made by the employee to the next level of line management. In the case of final warning, a request for review may be made to the Personnel Department through the immediate Supervisor.
- 30.8 A written record of the application of all levels of the disciplinary procedure (except informal discussions) will be made available and placed on an employee's personal file, with a copy also to be made available to the employee at the time of the procedure.
- 30.9 The disciplinary procedure will be conducted by the immediate Supervisor or Department Manager.

Level One - Formal Interview

Informal Verbal Dialogue

- 30.10 This step should be used to outline relevant Company policy and requirements and to correct any employee misinterpretation.

- 30.11 Continued informal discussion of an employee's inappropriate conduct by the employee will lead to a formal interview. The need to progress to formal interview will be established by the Supervisor and will include consideration of the nature of the employee conduct, the frequency of informal discussions and the employee's response to previous formal discussions.

Formal

- 30.12 This step requires a detailed discussion of an employee's inappropriate conduct and how the conduct is contrary to relevant Company policy and requirements (whether or not the employee is aware of the Company policy), any underlying reasons for the conduct and a participative commitment to correct and/or improve the area of concern. Formal interviews should be clearly seen and understood to have an assistance and educational function within the disciplinary procedure.
- 30.13 The procedure involves discussion of the following matters with the employee and documented accordingly:
- (a) What is required of the employee.
 - (b) Where and how the employee's conduct does not comply with relevant Company policy and requirements.
 - (c) What is to be done by the employee to meet Company policy and requirements and appropriate steps which may assist the employee.
 - (d) The outcome of failure to meet Company policy and requirements.
 - (e) The duration for which this warning will remain effective is for three months.

Level Two - Formal Warning

- 30.14 When an employee continues with inappropriate conduct after the formal interview level, or engages in misconduct of a minor nature, the Supervisor shall investigate the matter and issue a formal warning in writing, indicating to the employee:
- (a) What is required of the employee.
 - (b) Where and how the employee's conduct does not comply with relevant Company policy and requirements (whether or not the employee is aware of the Company policy).
 - (c) What is expected of the employee to meet Company rules and requirements and appropriate steps which may assist the employee.
 - (d) The outcome of failure to meet Company policy and requirements.
 - (e) The duration for which this warning will remain effective is for three months.

Level Three - Final Warning

- 30.15 A final warning will only be issued when the specific conduct complained of persists and after the employee having received informal interview and written warnings in accordance with this clause respectively. Where an employee fails to meet Company policy and requirements after these warnings, the Supervisor should issue a final warning. Final warning is the last step before an employee is dismissed and will be in writing.
- 30.16 The procedure for a final warning involves a review of the relevant disciplinary procedure to date or the misconduct and the offer to the employee of opportunity to prove an explanation.
- 30.17 The written advice of final warning issued to the employee will contain the following information:
- (a) A statement that this is a final warning.

- (b) Identification of the inappropriate conduct by the employee with reference to relevant Company policy and requirements.
- (c) A summary of relevant disciplinary procedure to date.
- (d) Detailing that a specific change is required in the employee's conduct and failure to achieve the specific change will lead to dismissal.
- (e) The duration for which this warning will remain effective is six months.

Dismissal

30.18 Where an employee fails to meet the requirements clearly identified in the written advice of final warning, or engages in serious misconduct, the Supervisor should seek dismissal of the employee. Dismissal may take the form of dismissal with notice or it may be summary dismissal.

Opportunity to Respond

30.19 At all stages of the disciplinary procedure, employees will be given an opportunity to explain their conduct or to respond to allegations made against them. Employees subject to disciplinary action will be given a detailed account of any allegations made against them in order that they can respond.

Level of Discipline

30.20 The levels of discipline outlined in the disciplinary procedure may or may not be administered in a sequential manner depending upon the situation.

30.21 The level of discipline appropriate in any particular situation will depend upon a number of factors, including the seriousness of the conduct concerned, the circumstances in which such conduct occurs and any interviews/warnings which are currently effective and relevant.

30.22 Many factors are involved in individual cases and these must all be considered prior to instituting the level of the disciplinary procedure. Subclause 30.24 of this clause contains some general guidelines which may help to indicate what level should be applied.

30.23 These guidelines are for the assistance of employees, Supervisors and Union delegates, and should not be taken to limit the instances or manner in which the disciplinary procedure may be administered. The examples provided are not exhaustive and should not be taken to be exhaustive.

Guidelines for the Application of the Disciplinary Procedure

30.24 The following areas of conduct may be addressed through either informal discussions formal interviews of formal warning depending upon the circumstances of each particular situation.

Level One - Formal Interviews

- (a) Absenteeism.
- (b) Malingering, neglect of duty, inefficiency.
- (c) Misbehaviour, disobedience, abuse, insubordination.
- (d) Breach of Company policies.
- (e) Or the like.

Levels Two and Three

- (f) As above, but considered to be of a more severe nature.
- (g) Discrimination (all types).
- (h) Sexual harassment.

Instant Dismissal

30.25 Areas of conduct deemed to warrant immediate dismissal in line with award provisions and Company policies.

Guidelines in the Administration of the Disciplinary Procedure

- 30.26 Whilst the effectiveness of any disciplinary procedure involves many factors, the following key points are highlighted as being particularly important.
- 30.27 Responsibility for the administration of the disciplinary procedure belongs with an employee's immediate Supervisor and the Production Manager in consultation with a Union delegate if the employee chooses to involve the Union delegate.
- 30.28 Administration of the disciplinary procedure depends upon the Union delegate and Supervisor's clear understanding of Company policies and requirements, and informing employees of these policies and requirements.
- 30.29 The disciplinary procedure should be applied:
- (a) Promptly with minimum delay.
 - (b) Objectively, i.e. focus upon the conduct concerned not the person involved.
- 30.30 Normal working relationships with the employee and Supervisor should be re-established once the disciplinary procedure is complete.

Devro Pty Limited**Disciplinary Procedure****Level Two - Formal**

Name:

☐

Department:

Supervisor:

Union Delegate:

Date:

1. Nature of Problem:

2. Employee has been informed that this conduct consolidates a final warning for minor misconduct or a second warning relating to a previous warning for similar incidents.

☐ Yes

3. Employee Comments:

4. To be rescinded (3 months from the above date) ☐

Level Three - Final

Name:

Department:

Supervisor:

Union Delegate:

Date:

1. Nature of Problem:

2. Discipline to Date:

3. Change Required:

4. To be Rescinded: (6 months from the above date)

THIS IS A FINAL WARNING. FAILURE TO COMPLY WITH THE CHANGE REQUIRED ABOVE WILL RESULT IN A NOTICE OF DISMISSAL.

Notice of Dismissal

Name:

Department:

Supervisor:

Union Delegate:

Date:

1. The abovenamed employee will terminate as from in accordance with the Devro-Teepak Code of Behaviour.

2. Nature of Problem:

3. Notice Period Required: ☐ Yes ☐ No

4. Summary Dismissal: ☐ Yes

31. Union Recognition, Right of Entry and Membership

Union Recognition

- 31.1 The Company recognises and supports the right of The Australasian Meat Industry Employees' Union, New South Wales Branch (AMIEU) to represent employees employed in classifications covered by this award and for those employees to join and remain members of the AMIEU.
- 31.2 The Company's management is committed to providing the AMIEU with an opportunity during induction training to address new employees and provide them with membership application forms.
- 31.3 A duly accredited representative of the AMIEU shall have the right to enter an employer's premises during the meal hour for the purpose of interviewing employees on legitimate union business on the following conditions:

- (a) that they produce their authority to the Manager or such other person as may be appointed by the employer;
- (b) that they interview employees only at the place where they are taking their meal; that not more than two representatives visit the same premises more than once a week; and
- (c) that, if any employer alleges that a representative is unduly interfering with the business or creating disaffection amongst their employees or is offensive in their methods, or is committing a breach of any of the previous conditions, such employer may refuse the right of entry.

Union Application Forms

31.4 All employees shall be given an application form to join the Union at the point of recruitment.

Trade Union Training Leave

31.5 The Company will grant three days' paid leave each year for two delegates to undertake an authorised trade union course. Such leave is non-cumulative.

ANNEXURE A**SALARY RATES**

Classification		Current Annual Salary	Current Base Hourly Rate	2003 Annual Salary	Increase 5.07%	2004 Annual Salary	Increase 4 %	2005 Annual Salary	Increase 4 %	2006 Bonus
		\$	\$	Effective 3/2/03 \$	\$	Effective 3/2/04 \$	\$	Effective 3/2/05 \$		Effective 3/2/06 \$
M/Skill Operator HGS	Continuous	44,787	17.08072	47,058	17.94671	48,940	18.66458	50,898	19.41116	842
M/Skill Operator	Continuous	48,656	16.83519	51,123	17.68873	53,168	18.39628	55,294	19.13213	743
	Afternoon	45,375	16.83519	47,676	17.68873	49,583	18.39628	51,566	19.13213	827
	Day	38,727	16.83519	40,690	17.68873	42,318	18.39628	44,011	19.13213	996
	Day Work	45,352	16.83519	47,651	17.68873	49,557	18.39628	51,540	19.13213	827
Skilled Operator	Continuous	47,563	16.45712	49,974	17.29150	51,973	17.98316	54,052	18.70248	769
	Afternoon	44,357	16.45712	46,606	17.29150	48,470	17.98316	50,409	18.70248	852
	Day	37,857	16.45712	39,776	17.29150	41,367	17.98316	43,022	18.70248	1,018
	Day Work	44,334	16.45712	46,582	17.29150	48,445	17.98316	50,383	18.70248	853
Specialist Operator	Day	33,764	16.03710	35,476	16.85018	36,895	17.52419	38,371	18.22516	1,122
Production Operator	Afternoon	33,351	14.98542	35,042	15.74518	33,889	16.37499	33,889	17.02999	1,132
	Day Rotation	36,325	14.98542	38,167	15.74518	39,693	16.37499	41,281	17.02999	1,057
	Day Work	31,552	14.98542	33,152	15.74518	34,478	16.37499	35,857	17.02999	1,178
General Operator	Day	30,317	14.39863	31,854	15.12864	33,128	15.73379	34,453	16.36314	1,209

ANNEXURE B

SENIOR OPERATORS

In the event that an overtime shift cannot be covered, having exhausted all possibilities, the Senior Operator will be moved to the Lines to assist.

To facilitate this, the Senior Operator will move to the position of Unit 3 Wet End Operator. The Operator occupying that position will move to the vacant position. The Spare Man will remain in his position. In the last hour of the shift, the Spare Man will move to Unit 3 Wet End to relieve the Senior Operator to allow him to complete his checks, paper work and computer entry requirements.

ANNEXURE C

DROP TESTS

During the past few months to assist with the improvement of consistency of TMAS product the Drop Test has been developed. The Drop Test involves taking a sample slug placing it in the test rig through the appropriate chuck, to simulate its use in a filling machine, attaching a predetermined weight and opening a set of jaws which allows the casing to drop to the floor. The time it takes the casing to fall 1.3 metres is measured and recorded as the Drop Test. This is a measure of resistance.

The introduction of this test has had a significant impact on the development of our knowledge base in relation to the running of this type of product and also the interaction between various aspects of the process and their impact on the resistance of this product.

Currently Drop Tests are completed by the Senior Operators on all TMAS product plus some standard product identified for specific customers, for example, 23ACE010 for Primo. Drop Tests are also completed by the QA staff as part of the product classification process. The combination of on line and QA Drop Tests has had a significant impact on both QA downgrades and Customer Returns for these products during July.

Therefore it is imperative that we continue to carry out these tests on a regular and routine basis as well as continue the development of Drop and alternate tests that help us to become more controlled in our process and supply consistent product to the market. The Senior Operators will continue to carry out the tests as required on the TMAS and specifically identified products. In the future, however, as Drop Tests are developed for other products, it will be necessary to roll these out to Line Operators as part of the measurement of both the Product and the Process. It will be necessary to review the current tests and the need to facilitate the roll out, which will be completed in consultation with Shift Supervisors, Line Operator representatives and Quality personnel.

The future of our business is based on consistency and as such it will be necessary to continually monitor our process and tests to ensure they are giving us the results and products required to service our customer and maintain a cost efficient operation.

Flexibility within our operation both from a production and labour base is the key to the future. I look forward to your support as we move our business forward.

ADDENDUM A

ABSENTEEISM MONITORING COMMITTEE

1. An Absenteeism Monitoring Committee ("the Committee") shall be formed as part of Commissioner O'Neill's recommendation in NSW IRC 178 of 2002 held on 25 January 2002.
2. The Committee will comprise four members: two to be appointed by Management and two elected employee representatives (excluding Union delegates) to be appointed by the Union. There will be two reserve members of the Committee: one appointed by the Management and one appointed by the Union.

3. An employee will be referred to the Committee after eight days of absences in any one calendar year for early intervention.
4. The Committee will counsel employees that have exceeded ten days of absences in any one calendar year or where an employee has developed a pattern of absenteeism.
5. The Committee shall make recommendations to the Company on what action, if any, is to be taken against the employee in accordance with clause 30, Disciplinary Procedure, provided such warnings stand alone.
6. All the warnings issued shall be per the disciplinary procedure clause as set out in the award.
7. This arrangement shall take effect from 1 January 2002 and shall be an addendum to the award. Any records prior to 1 January 2002 shall not be part of this monitoring system.
8. If an employee is unable to attend work the following steps must be followed:
 - (a) The Company must be informed at all times of any absences.
 - (b) A doctor's certificate must be obtained for all absences beyond two days in succession.
 - (c) All award provisions must be carried out regarding the taking of Sick Leave.
9. If there is any dispute regarding any of the above procedures, the matter shall be referred to the Industrial Relations Commission of NSW by the Company for resolution in accordance with the disputes procedure in the award.
10. All discussions and disclosures to the Committee should only be used by the Committee in relation to their role as Committee members and should otherwise always remain confidential.
11. The Company should provide training for the Committee. Such training shall be developed in consultation with the Committee and the Union.
12. The above procedures are designed to control excessive absenteeism and are not to be used in any way to eliminate or reduce any employees right to the Sick Leave provisions as set out in the award.

I. W. CAMBRIDGE, Commissioner.

Printed by the authority of the Industrial Registrar.

COURIERS PLEASE PTY LTD CONTRACT DETERMINATION

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Notification under section 332 by Transport Workers' Union of Australia, New South Wales Branch, of a dispute with Courier Please re alleged breach of dispute procedures.

(No. IRC 4667 of 2001)

Before Commissioner Connor

13 March 2003

DETERMINATION

Clause No.	Subject Matter
1.	Definitions
2.	Area, Incidence and Duration
3.	Consultation Required before Exercising Contractual Rights
4.	Other Responsibilities of the Principal Contractor and Contract Carrier
5.	Dispute Procedure
6.	Sale of Run

1. Definitions

In this Contract Determination, unless otherwise required by the context:

"Act" means the *Industrial Relations Act* 1996.

"Courier Contract" means the individual contract between each of the Contract Carriers and the Principal Contractor tendered and marked as an exhibit in these proceedings.

"Contract Carrier" means a carrier engaged by the Principal Contractor.

"Contract of Carriage" has the meaning given to that expression by the Act.

"Principal Contractor" means Couriers Please Pty Ltd (ACN 006 144 734).

"Shuttle Driver Contract" means the individual contract between each of the Contract Carriers and the Principal Contractor tendered and marked as an exhibit in these proceedings.

"Union" means the Transport Workers' Union of New South Wales (registered under the Act as an Association of contract carriers).

Words importing the singular numbers shall include the plural number and vice versa.

Words importing the masculine gender shall include the female gender and words importing persons shall include corporations.

2. Area, Incidence and Duration

2.1 The contract determination shall operate in respect of all contracts of carriage between the Principal Contractor and Contract Carriers performed within the state of New South Wales.

2.2 The contract determination shall be read in conjunction with the Courier Contract and the Shuttle Driver Contract ("the Contracts"). Where there is any inconsistency between this contract determination and the Contracts this contract determination shall apply.

- 2.3 This contract determination exempts the Principal Contractor from the operation of the following contract determinations, or any such other contract determination that might otherwise apply, as from time to time amended:
- (a) Transport Industry - General Carriers Contract Determination.
 - (b) Transport Industry - Courier and Taxi Truck Contract Determination.
 - (c) Transport Industry - Excavated Materials, Contract Determination.
 - (d) Transport Industry - Quarried Materials, &c., Carriers Contract Determination.
 - (e) Transport Industry - Car Carriers (NSW) Contract Determination.
 - (f) Transport Industry - Waste Collection and Recycling Contract Determination.
 - (g) Transport Industry - Courier and Taxi Truck (Superannuation) Contract Determination.
 - (h) Transport Industry - Interstate Carriers Contract Determination.
- 2.4 This contract determination shall operate on and from 13 March 2003 and shall have a nominal term of three years.

3. Consultation Required Before Exercising Contractual Rights

The Principal Contractor will consult with the Union in relation to affected Contract Carriers who are Union members, and will consult with affected Contract Carriers who are not Union members, before:

- 3.1 exercising its rights under clause 1.1.6 of the Courier Contract and/or clause 1.1.5 of the Shuttle Driver Contract (concerning the Principal Contractor declaring things to be services);
- 3.2 exercising its rights under clause 2.3.3 of the Courier Contract and/or clause 2.3.2 of the Shuttle Driver Contract (concerning changes to boundaries under the Courier Contract and changes to the locations of termini under the Shuttle Driver Contract);
- 3.3 requiring Contract Carriers to pick up or deliver freight for a customer at a rate which is lower than the normal rates under clause 3.4 of the Courier Contract as a result of the Principal Contractor negotiating that lower rate with that customer;
- 3.4 designating additional items under clause 6.4.4. (a) of the Courier Contract and/or clause 6.4.5 (a) of the Shuttle Driver Contract (concerning items for which the Contract Carriers must reimburse the Principal Contractor.
- 3.5 exercising its rights to introduce any new communications system for which the Contract Carriers must reimburse the Principal Contractor under clause 6.4.4 (f) of the Courier Contract;
- 3.6 exercising its rights to introduce any new linehaul or shorthaul services for which the Contract Carriers must reimburse the Principal Contractor under clause 6.4.4(1) of the Courier Contract.

4. Other Responsibilities of the Principal Contractor and Contract Carrier

- 4.1 The Principal Contractor will exercise its rights under clause 6.3 of any Contract only where there has been a significant or repeated breach of the rules or instructions.
- 4.2 The Principal Contractor will, if practical, seek that a Contract Carrier rectify a breach of the contract before seeking reimbursement under clause 6.4.4(h) of the Courier Contract and/or clause 6.4.5(e) of the Shuttle Driver Contract.

- 4.3 Contract Carriers must scan customer generated bar codes as coupons, as and when required to do so.

5. Dispute Procedure

Any dispute, difficulty or question arising between the parties to this determination, except for any dispute, difficulty or question arising in connection with clause 3.2 of the Courier Contract, or clause 9.5 of any Contract, shall be dealt with in the following manner:

- 5.1 Affected Contract Carriers, and at his/her/their request, the representative of the Union on the job, shall negotiated with the Principal Contractor or the Principal Contractor's nominated representative.
- 5.2 If the question, dispute or difficulty is not resolved, either party may refer the matter to an Organiser, or other Official of the Union, who may, either personally or by nominated representative, endeavour to negotiate a settlement on the question, dispute or difficulty,.
- 5.3 If negotiations contemplated in subclauses 5.1 and 5.2 above are unsuccessful, the parties may notify the dispute in accordance with the Act, or take the matter to such other person or body as may be agreed by the parties concerned to act as arbitrator.

This disputes procedure will apply to the exclusion of clause 12.5 of the Courier Contract and clause 11.5 of the Shuttle Driver Contract.

6. Sale of Run

If a Contract Carrier ("Seller") sells his or her run ("Run"), then for a period of 12 months after the date the sale takes effect ("Sale Date"), the Seller must not within the geographical area of the Run:

- (a) engage or prepare to engage in any business or activity which is the same as, substantially similar to or competitive with the Business; or
- (b) solicit, canvass, approach or accept any approach from any Customer with a view to obtaining the custom of the Customer in a business that is the same, similar or competitive with the Business; or
- (c) interfere with the relationship between the buyer and its Customers in the Run; where

"Business" means the business of providing courier services in relation to the Run.

"Customer" means any person who was a customer of the Seller in relation to the Run at any time during the 12 months prior to the Sale Date.

"Engage in" means to participate, assist or otherwise be directly or indirectly involved including as a member, shareholder, unitholder, director, consultant, adviser, contractor, principal, agent, manager, employee, beneficiary, partner, associate, trustee or financier.

This clause does not apply for work within the geographical area of the Run performed as an employee or contract carrier for an existing transport business (other than a business owned or substantially owned by the Contract Carrier) where such work is merely an incidental part of the person's engagement.

P. J. CONNOR, Commissioner.

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(1685)

SERIAL C2216

UNIVERSITY UNIONS (STATE) AWARD

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by Shop, Distributive and Allied Employees' Association, New South Wales, industrial organisation of employees.

(No. IRC 4782 of 2003)

Before Commissioner Ritchie

4 September 2003

VARIATION

1. Delete paragraph 10.1.2 of subclause 10.1 of clause 10, Wages, of the award published 22 August 2003 (341 I.G. 100) and insert in lieu thereof the following:

10.1.2 The rates of pay in this award include the adjustments payable under the State Wage Case 2003. These adjustments may be offset against:

- (i) any equivalent over-award payments; and /or
- (ii) award wage increases since 29 May 1991 other than safety net, State Wage case and minimum rates adjustments.

2. Delete Part B, Monetary Rates, and insert in lieu thereof the following:

PART B

MONETARY RATES

Table 1 - Wage Rates

Level	From the first pay period on or after 4 September 2003 Per Week \$
1	455.30
2	472.30
3(a)	497.90
3(b)	506.80
4	516.60
5	551.00
6	591.60
7	612.90

Table 2 - Other Rates And Allowances

Item. No.	Clause No.	Brief Description	Amount \$
1	9.1	Meal Allowance	9.40
2	15.2	Apprentices Tool Allowance	0.59 per week
3	25.1	Laundry Allowance -	

		Special clothing requiring ironing	2.72 per day to a maximum of 8.10 per week
		Special clothing not requiring ironing	1.60 per day to a maximum of 4.90 per week
4	26.1	First-aid Allowance	8.60 per week
			1.72 per shift

4. Delete Appendix A - Training Wage Rates and insert in lieu thereof the following:

APPENDIX A

Training Wage Rates

Table 1 - Monetary Rates - Skill Level A

Where the accredited training course and work performed are for the purpose of generating skills which have been defined for work at Skill Level A.

	Highest Year of Schooling Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
School leaver	207.00	227.00	274.00
Plus 1 year out of school	227.00	274.00	319.00
Plus 2 years	274.00	319.00	371.00
Plus 3 years	319.00	371.00	424.00
Plus 4 years	371.00	424.00	
Plus 5 years or more	424.00		

The average proportion of time spent in structured training which has been taken into account in setting the above rates is 20 per cent.

Table 2 - Monetary Rates - Skill Level B

Where the accredited training course and work performed are for the purpose of generating skills which have been defined for work at Skill Level B.

	Highest Year of Schooling Completed		
	Year 10 \$	Year 11 \$	Year 12 \$
School leaver	207.00	227.00	264.00
Plus 1 year out of school	227.00	264.00	304.00
Plus 2 years	264.00	304.00	357.00
Plus 3 years	304.00	357.00	406.00
Plus 4 years	357.00	406.00	
Plus 5 years or more	406.00		

The average proportion of time spent in structured training which has been taken into account in setting the rate is 20 per cent.

Table 3 - Monetary Rates - Skill Level C

Where the accredited training course and work performed are for the purpose of generating skills which have been defined for work at Skill Level C.

	Highest Year of Schooling Completed		
	Year 10 \$	Year 11 \$	Year 12 \$

School leaver	207.00	227.00	257.00
Plus 1 year out of school	227.00	257.00	289.00
Plus 2 years	257.00	289.00	323.00
Plus 3 years	289.00	323.00	361.00
Plus 4 years	323.00	361.00	
Plus 5 years or more	361.00		

The average proportion of time spent in structured training which has been taken into account in setting the above rate is 20 per cent.

Table 4 - School-based Traineeships

	Year of Schooling	
	Year 11 \$	Year 12 \$
School-based traineeships Skill Levels A, B and C	207.00	227.00

The average proportion of time spent in structured training which has been taken into account in setting the above rates is 20 per cent.

Table 5 - Hourly Rates For Trainees Who Have Left School

	Year 10 \$	Year 11 \$	Year 12 \$
Wage Level A -			
School leaver	6.81	7.47	9.01
Plus 1 year after leaving school	7.47	9.01	10.49
Plus 2 years	9.01	10.49	12.20
Plus 3 years	10.49	12.20	13.95
Plus 4 years	12.20	13.95	
Plus 5 years or more	13.95		
Wage Level B -			
School leaver	6.81	7.47	8.68
Plus 1 year after leaving school	7.47	8.68	10.00
Plus 2 years	8.68	10.00	11.74
Plus 3 years	10.00	11.74	13.36
Plus 4 years	11.74	13.36	
Plus 5 years or more	13.36		
Wage Level C -			
School leaver	6.81	7.47	8.45
Plus 1 year after leaving school	7.47	8.45	9.51
Plus 2 years	8.45	9.51	10.63
Plus 3 years	9.51	10.63	11.88
Plus 4 years	10.63	11.88	
Plus 5 years or more	11.88		

Table 6 - Hourly Rates for School-Based Traineeships

	Year of Schooling	
	Year 11 \$	Year 12 \$
Wage Levels A, B and C	6.81	7.47

5. This variation shall take effect from the first full pay period to commence on or after 4 September 2003 and remain in force for a period of 12 months.

D. W. RITCHIE, Commissioner.

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SERIAL C2219

AMBULANCE EMPLOYEES (STATE) INDUSTRIAL COMMITTEE

INDUSTRIAL RELATIONS COMMISSION OF NEW SOUTH WALES

Application by The Health and Research Employees' Association of New South Wales, industrial organisation of employees.

(No. IRC 4770 of 2003)

Before the Honourable Justice Boland

18 September 2003

ORDER

The Commission orders that -

1. The Ambulance Employees (State) Industrial Committee published 7 July 2000 (316 I.G. 1316), be extended for a further three years.
2. Delete the title of the Union "The Health and Research Employees' Association of New South Wales", effective as from 1 October 2003 and insert in lieu thereof the following:

"Health Services Union".
3. This order shall take effect on and from 18 September 2003

R. P. BOLAND *J.*

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SERIAL C2297

**ENTERPRISE AGREEMENTS APPROVED
BY THE INDUSTRIAL RELATIONS COMMISSION**(Published pursuant to s.45(2) of the *Industrial Relations Act* 1996)

EA03/207 - Readymix Holdings Pty Ltd trading as Readymix-Southern NSW Aggregate Transport Enterprise Agreement No. 5 - 2003
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Made Between: Readymix Holdings Pty Limited -&- the Transport Workers' Union of New South Wales.

New/Variation: Replaces EA01/83

Approval and Commencement Date: Approved 8 September 2003 and commenced 1 January 2003.

Description of Employees: Applies to employees of Readymix Holdings Pty Limited engaged as transport workers at the company's sites in Marulan and Queanbeyan covered by the Transport Industry Quarried Materials (State) Award.

Nominal Term: 31 December 2005

EA03/208 - Readymix Holdings Pty Limited Albion Park Transport Enterprise Agreement No.1 2003

Made Between: Readymix Holdings Pty Limited -&- the Transport Workers' Union of New South Wales.

New/Variation: New.

Approval and Commencement Date: Approved 18 August 2003 and commenced 1 January 2003.

Description of Employees: Applies to employees of Readymix Holdings Pty Limited at Wollybutt Drive, Albion Park employed in the occupation of driving and covered by the Transport Industry Quarried Materials (State) Award.

Nominal Term: 31 December 2005

EA03/209 - Patrick Logistics Pty Limited Ingleburn & NSW (Intermodal Facility) Enterprise Agreement 2003

Made Between: Patrick Logistics Limited -&- the Transport Workers' Union of New South Wales.

New/Variation: Replaces EA02/350

Approval and Commencement Date: Approved and commenced 18 July 2003.

Description of Employees: The agreement applies to all employees who are engaged by Patrick Logistics Pty Ltd, solely in the classification of facility operations, at 4 Inglis Rd, Ingleburn NSW 2565 and 2 Lyn Parade, Lurnea NSW 2170 and any other new site in the future deemed by the parties as appropriate for this agreement to apply. It covers employees who fall within the coverage of the Transport Industry (State) Award, excluding any variations made subsequent to certification of this agreement unless agreed between

the parties..

Nominal Term: 26 November 2004.

EA03/210 - TNT Logistics (Australia) Pty Ltd - TWU New South Wales Branch (Contractor Carriers) Heads of Agreement 2003-2004

Made Between: TNT Logistics (Australia) Pty Ltd -&- the Transport Workers' Union of New South Wales.

New/Variation: New.

Approval and Commencement Date: Approved 19 September 2003 and commenced 1 January 2003.

Description of Employees: The agreement applies to all persons employed by the company as contract carriers (as defined in clause 4), who fall within the coverage of the Transport Industry - Car Carriers Contract Determination..

Nominal Term: 31 December 2004

EA03/211 - The Yeoval Community Hospital Cooperative Ltd Nurses Remuneration Packaging Agreement 2003

Made Between: Yeoval Community Hospital Co-operative Ltd -&- the New South Wales Nurses' Association.

New/Variation: New.

Approval and Commencement Date: Approved and commenced 5 September 2003.

Description of Employees: The agreement applies to all full-time and part-time nurses of Yeoval Community Hospital Cooperative Ltd who fall within the coverage of the Private Hospitals Industry Nurses' (State) Consolidated Award..

Nominal Term: 5 September 2004

EA03/212 - Zoological Parks Board of New South Wales Asset Operations Employees Taronga Zoo Enterprise Agreement 2003

Made Between: Zoological Parks Board of New South Wales -&- the Construction, Forestry, Mining and Energy Union (New South Wales Branch), Electrical Trades Union of Australia, New South Wales Branch, The Australian Workers' Union, New South Wales, The New South Wales Plumbers and Gasfitters Employees' Union, Transport Workers' Union of New South Wales.

New/Variation: New.

Approval and Commencement Date: Approved and commenced 12 May 2003.

Description of Employees: The agreement applies to all full-time, part-time and casual employees engaged in the Asset Operations Section of Taronga Zoo, who are in the classifications of: Tradespersons; Apprentice Tradespersons; Labourer/Driver/Operators; Operations Supervisor, Assets; and Reuse Plant Operator, but excluding Horticulture employees. The relating awards include General Construction and Maintenance, Civil

and Mechanical Engineering &c (State) Award; Crown Employees (Skilled Trades) Award; and the Transport Industry (State) Award..

Nominal Term: 30 June 2004.